

# CALIFORNIA CRIME LABORATORY REVIEW TASK FORCE

Minutes: October 2, 2008

Sacramento County District Attorney Crime Lab  
4800 Broadway, Sacramento, CA

Members Present: Dane Gillette (Chair), Barry Fisher (Vice Chair), Bob Jarzen (Host), William Thompson, Sam Lucia, Jennifer Friedman, Jeff Rodzen, Charlotte Wacker, Jennifer Mihalovich, Greg Matheson, Dean Gialamas, James McLaughlin, Libby Johnson, Arturo Castro

Staff Present: Mike Chamberlain, Colleen Higgins, Leah Barros

Members of the Public: Kevin Davis (CHP – with Jim McLaughlin); Bill Phillips (DOJ, Bureau of Forensic Science, Sacramento); Paul Holes (Director, Contra Costa Sheriff's Office Crime Lab); Peter Barnett, Speaker/Presenter (Forensic Science Associates); Jan Scully, Speaker/Presenter (Sacramento District Attorney); Steve Hayes (Alameda County Crime Lab); Eva Steinberger (DOJ, BFS-Richmond); Torrey Joyhnson (DOJ, CCI); Cecilia Von Beroldingen (DOJ, CCI); Megan Dickey (DOJ, CCI); Kurtis Smith (DOJ, BFS-Sacramento); Tanya Beede (DOJ, BFS-Sacramento); Jill Spriggs (DOJ, BFS-HQ); Clay Larson (California Department of Public Health); Karen Sheldon (Retired, private consultant).

Chair Dane Gillette called the meeting to order at 11:30 a.m. Mr. Gillette offered thanks on behalf of the Task Force to Laboratory Director Bob Jarzen for graciously hosting the meeting and providing guided tours of the lab facility.

## Minutes

The minutes of the September 2008 meeting, as amended, were approved by motion and vote.

## Laboratory Visits and Surveys

Based on early experiences, the laboratory visits may last from 3-4 hours. It will be important to include at least some time with laboratory staff without agency officials such as a district attorney present. Laboratory directors should be provided with the draft report/narrative resulting from the laboratory visit and given two weeks to review and comment.

The interview "script" has been sent out to laboratory directors. Only the San Francisco and Los Angeles medical examiners' offices have not returned surveys, but DOJ staff contacted those agencies and received assurances that the surveys are forthcoming. One survey to a defense attorney conflict panel will be re-sent to the correct recipient.

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### Task Force Timeline

The chronology set forth in the August 2008 minutes has been agreed upon, and is reprinted here for convenience:

August 1, 2008: All lab director surveys completed and returned

November 1, 2008: Follow-up lab visits completed

December 1, 2008: Lab visit reports written, reviewed by lab directors, and returned to Task Force

January 8, 2009: Two-member subcommittees submit written summaries of data and findings on subject matter areas, including what works well, and why

Feb. 1, 2009: Two-member subcommittees prepare recommendations in draft/outline form for presentation to Task Force

Feb. 5, 2009: | Task Force debates and resolves recommendations for inclusion

March 2, 2009: | in final report; two-member subcommittees submit final drafts

April 7, 2009: | accordingly

May 1, 2009: Task Force staff distributes draft of final report for review and fine tuning at May and June meetings, including Executive Summary

### Presentation by Peter Barnett

Mr. Peter Barnett was kind enough to provide the Task Force with an engaging presentation on criminalist ethics. A copy of the presentation is attached to these minutes as an addendum, and incorporated by reference. The Task Force thanked Mr. Barnett, and expressed its appreciation for his contribution.

### Presentation by District Attorney Jan Scully

Sacramento County District Attorney Scully spoke to the Task Force about placement of crime laboratories within district attorneys' offices, as the Sacramento laboratory is. She stressed the importance of good lines of communication and collaboration between client agencies and the laboratory, so as to properly prioritize and define appropriate casework needs in light of laboratory time and resources, and other considerations such as statute of limitations.

DA Scully noted the budgetary advantages of having an elected official advocating for funding, and emphasized the need to seek supplemental grant funding and prolong equipment usage to the degree possible without compromising scientific efforts.

It is crucial for every law enforcement laboratory to maintain a reputation for objective, unbiased forensic science. In Sacramento County, one indication that this reputation is

firmly established is the rarity with which criminal defendants seek retesting of evidence. Moreover, the crime laboratory division of the DA's Office occupies a separate column on the organization chart that makes it functionally and formally a stand-alone unit within the overall office structure. Any allegations of crime lab malfeasance would be investigated independently by the office's investigations division.

DA Scully further cited the need to employ both prosecutors and defense attorneys who are well-versed in DNA science, and noted that "*Brady* evidence" considerations and decisions are facilitated by careful coordination between prosecutors and crime lab staff.

The Task Force thanked DA Scully for her insightful and thought-provoking presentation.

#### Accreditation Discussion

Dean Gialamas noted that ISO accreditation would eliminate many, if not all, of the concerns raised by Peter Barnett regarding reporting requirements and other ethical issues. The ISO "International" accreditation, which will be the sole option following the future phasing out of the ISO "Legacy" program, focuses on both quality systems and management protocols from a "quality culture" perspective. The Task Force agreed that it would be helpful for Dean to provide a more detailed presentation about ISO International standards, paying particular attention to testimony and internal laboratory review procedures.

Statistics will be provided regarding the number of California laboratories who will seek ISO International accreditation versus Legacy accreditation in their next cycle.

#### *Brady v. Maryland* Issues

The group discussed various protocols and approaches to ensuring that "*Brady* material" at crime laboratories is properly revealed to prosecutors and then to defendants. It was agreed that, although prosecutors bear the legal responsibility for making determinations under *Brady*, crime laboratory staff would be well-served by receiving training about *Brady* evidence and the need to disclose to prosecutors if any question exists.

#### Public Comment

Clay Larsen criticized ASCLD/LAB accreditation standards as applied to breath alcohol testing, and noted that those standards differ from the more traditional model presented by CLIA ("Clinical Laboratory Improvement Act") regulations.

It was agreed that a discussion of the differences between the ISO accreditation models and CLIA regulations should take place at the next meeting. Potential speakers include John Neuner and/or Anya Einseln.

Next Meeting

The next meeting will take place on November 6, 2008, in Los Angeles.

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