

# CALIFORNIA CRIME LABORATORY REVIEW TASK FORCE

Minutes, December 6, 2007, Meeting  
1300 I Street  
Sacramento, California

Member Present: Dane Gillette (Chair) Barry Fisher (Vice Chair), Cliff Diamond, Dean Gialamas, Dolores Carr, Elizabeth Johnson, Jennifer Friedman, Jennifer Mihalovich, Jim McLaughlin, June Clark, Michael Burt, Robert Jarzen, Sam Lucia, Steven Nash, William Thompson

Staff Present: Janet Gaard (DOJ - Special Assistant Attorney General); Lance Gima (DOJ - Forensic Consultant), Mike Chamberlain (DOJ - Staff Counsel), Colleen Higgins (DOJ-Notes), Lisa Talani (DOJ-Admin)

The meeting was called to order at 10:00 a.m.

## INTRODUCTION OF TASK FORCE MEMBERS AND STAFF

Task Force members and staff introduced themselves. Dane Gillette reminded the group that the Governor's two appointments to the Task Force are still pending.

Dane Gillette administered the Oath to all members.

The applicability of exemption to Form 700 was discussed.

## ADMINISTRATIVE ISSUES

Colleen will add more documents each meeting as received, three hole punched. All documents will be concurrently posted on the Attorney General's public website under the Task Force listing.

Task Force members will provide CV's by e-mail to Lisa or Colleen for posting.

## ELECTION OF VICE CHAIR

By motion and unanimous vote, Barry Fisher was elected Vice Chair.

## AUTHORIZING STATUTE

The chair asked for consensus that the Task Force statute (Penal Code section 11062) identifies only government funded crime labs for review and that it is not exclusively DNA- focused.

## BAGLEY-KEENE ACT REVIEW

Deputy Attorney General Ted Prim summarized the Bagley-Keene Act and its applicability to Task Force activities and function. He emphasized the following points:

- The Task Force will work as a “consensus body”
- The Task Force will publicly notice its meetings, prepare agendas, accept public testimony and conduct meetings in public
- Task Force members should distinguish between their role on the Task Force and other professional duties, and exercise care where they appear to overlap. “Separate hats” should always be worn.
- Discussions about Task Force business among more than two Task Force members are prohibited, as are “serial meetings”
- The agenda should set forth topics which a lay person would understand. It will be posted on the DOJ’s website
- Agenda items can be circulated before posting on the website if a memo or report is made available to public via website or at Task Force meeting
- A two-member working group (i.e., subcommittee) is permissible if advisory in nature
- Two Task Force members may speak jointly with a third party such as staff
- Staff may send group e-mails, but should be wary of reciprocal electronic communications with multiple Task Force members
- It is permissible for a Task Force member to openly discuss Task Force business with outside parties (e.g., information gathering)
- Task Force members may send representatives to Task Force meetings in their absence, but no proxy power (i.e., not as “alternates”)

## MEETING DATES

Meetings will be held the first Thursday of every month in Sacramento, until further notice.

EXCEPTIONS: January 10th (holiday conflict)  
April 2nd (conference room conflict)  
July 2nd (holiday conflict)

Discussion of tour(s) of lab(s) took place in light of Bagley-Keene. Concerns were expressed re. lab security and sterility protocols.

It was suggested that two-person Task Force subcommittees survey and assess different laboratories (perhaps grouped geographically) so as to minimize the potentially disruptive effects of the Task Force’s investigation. The two-person teams could also then survey those labs’ client agencies.

## VISION AND MISSION

The structure of Task Force will be open, honest, transparent, and committed to equal access. The Task Force perceives its duty to all stakeholders as equally important, including the public, law enforcement, criminal justice, prosecution, and defense. The Task Force will not adopt a strictly prosecution perspective, but instead appreciates the wide variety of expertise contributed and views represented.

There will be a dual focus on timeliness and quality of forensic services.

## PRIORITIES AND DATA COLLECTION

The Task Force agreed on the concept of a two-part survey: (1) the labs; (2) their client agencies and other stakeholders. The Task Force discussed the possibility of issuing interim or preliminary reports as precursors to a final report and inventory. Further discussion is needed.

Several sources of current information on data collection were recommended:

- 1998 California State Auditor's Report on crime laboratories
- 2002 California DOJ Report on crime laboratories
- West Virginia University's "Foresight Project", which undertakes laboratory comparisons using sophisticated metrics

Speakers could also be invited to speak to the Task Force on effective survey methods.

NIJ may also be a source of survey methods and templates for clients agencies' perceptions of forensic services.

Survey methods and issues were discussed, including how to define a "backlog" and "turn-around time," and how to conceptualize the required "inventory." Crime lab inventory survey will include personnel/vacancies/job qualifications.

It will be important to launch data collection early following definition of key terminology.

Lab budgets will be a core focus, perhaps cross-indexed by population served and crime rates.

Data collection from client agencies will be important to gauge both timeliness and quality of services. Police chiefs and sheriffs, victims, prosecutors, and defense attorneys will all have valuable input.

Laboratory quality investigations may need to consider formal quality control protocols; disclosure practices in cases, documentation standards, personnel perceptions (e.g., is too much time spent in court?), and potentially audits by accrediting bodies. Because previous California reports may be outdated, current laboratory audit reports could be useful as a source of updated data. Audit reports may not be public documents,

however, and further study of the issue will take place, e.g., whether such documents qualify for disclosure under the California Public Records Act.

Role of accreditation: What is enough to meet standards of quality and timeliness that is appropriate? NY is the only state that requires all labs to be accredited. In California 28 of 29 public labs are accredited, but a Task Force member questioned whether ASCLD/LAB accreditation is sufficient. It may be useful to hear from a guest speaker concerning accreditation and/or certification and/or licensing. A model may be the California Commission on Peace Officer Standards and Training (“P.O.S.T.”). International Forensic Standards (“ISO”) will soon become the standardized accreditation for all labs.

Funding for any oversight and standards must be considered in tandem (e.g., state or county expense?).

It was observed that California public crime labs are not funded to do defense work, and that doing so may raise intractable attorney-client privilege issues.

The Task Force will consider the optimum laboratory business model, and look at topics such as the feasibility of regional laboratory cooperation/splitting of substantive responsibilities.

It was suggested that laboratory discovery “policies” be assessed with an eye toward efficiency and completeness, while considering confidentiality, attorney-client privileges, security, and case-specific application of statutory discovery mandates and limitations. For example, some laboratories post updated materials (such as protocols, proficiency testing, and instrument calibration records) on public websites as a way to facilitate discovery in criminal cases. The education of lab staff in “Brady” obligations may also be a useful recommendation. The American Bar Association recommendations on standards in discovery was cited as a potentially useful reference.

One member proposed that the Task Force consider the fundamental validity of forensic science itself, and the example was given of flaws recently revealed in the FBI’s bullet lead comparison technique. Best practices for interpretation (e.g., that account for potential observer bias) could be addressed, as well as the proper degree of communication between law enforcement and the forensic laboratory. If these issues do not fall under a defined Task Force mandate, however, the Task Force may be able to recommend further study in the future.

## MATERIALS

The West Virginia study and the 1998 and 2002 California reports will be obtained and disseminated to the Task Force and the public.

Task Force staff will work on a letter to California lab directors regarding the Task Force’s activities

## NEXT MEETING

The next meeting of the Task Force will take place on January 10, 2008, in Sacramento.

Colleen will post the agenda at least 10 days prior

Members should e-mail their CV to Colleen or Lisa for posting

MEETING ADJOURNED.