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BARRY A. J. FISHER

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Dear Dane,

I am writing this letter to you in my capacity as the past vice-chair of the California Crime Laboratory Review Task Force, which held its last meeting on June 3, 2010 in Los Angeles, and wish to include my comments in the report to the Legislature.

The National Academy of Science's report on forensic science, Strengthening Forensic Science in the United States: A Path Forward, is an indictment of a significant number of systemic problem areas in forensic science across the United States. The report is available for review, on line, at <http://www.nap.edu/catalog/12589.html>.

While the purpose of this document is neither to review nor to summarize the NAS report, a brief review of two points in the report is appropriate for consideration of the recent work of the California Crime Lab Review Taskforce's work and the decision to temporarily end further discussions about crime laboratory oversight.

The NAS report notes:

"In considering the testimony and evidence that was presented to the committee, what surprised us the most was the consistency of the message that we heard:

The forensic science system, encompassing both research and practice, has serious problems that can only be addressed by a national commitment to overhaul the current structure that supports the forensic

science community in this country. This can only be done with effective leadership at the highest levels of both federal and state governments, pursuant to national standards, and with a significant infusion of federal funds.”

And, in an section labeled, Political Realities

“Most forensic science methods, programs, and evidence are within the regulatory province of state and local law enforcement entities or are covered by statutes and rules governing state judicial proceedings. Thus, in assessing the strengths, weaknesses, and future needs of forensic disciplines, and in making recommendations for improving the use of forensic technologies and techniques, the committee remained mindful of the fact that Congress cannot directly fix all of the deficiencies in the forensic science community. Under our federal system of government, Congress does not have free reign to amend state criminal codes, rules of evidence, and statutes governing civil actions; nor may it easily and directly regulate local law enforcement practices, state and local medical examiner units, or state policies covering the accreditation of crime laboratories and the certification of forensic practitioners. Congress’ authority to act is significant, however. Forensic science programs in federal government entities—whether within DOJ, DHS, DOD, or the Department of Commerce (DOC)—are funded by congressional appropriations. If these programs are required to operate pursuant to the highest standards, they will provide an example for the states. More importantly, Congress can promote “best practices” and strong educational, certification, accreditation, ethics, and oversight programs in the states by offering funds that are contingent on meeting appropriate standards of practice. There is every reason to believe that offers of federal funds with “strings attached” can effect significant change in the forensic science community, because so many state and local programs currently are suffering for want of adequate resources. In the end, however, the committee recognized that state and local authorities must be willing to enforce change if it is to happen.

In light of the foregoing issues, the committee exercised caution before drawing conclusions and avoided being too prescriptive in its recommendations. It also recognized that, given the complexity of the issues and the political realities that may pose obstacles to change, some recommendations will have to be implemented creatively and over time in order to be effective.”

The California Crime Laboratory Review Taskforce

The taskforce was created at the behest of the State Legislature to consider the status of crime laboratories in California. It prepared a report and recommended that the Taskforce continue for a second year to consider if some form of forensic science oversight, whether an advisory body or regulatory body was needed. A majority of the taskforce subsequently voted to cease deliberation until such time as Federal review of these issues is completed. Both the Executive and Legislative branches of the federal government is in the process of formulating responses to the NAS report and its recommendations.

While the taskforce's decision is certainly understandable, there is work that the State can consider in advance of any federal. It is my opinion that ceasing deliberations at this time was a missed opportunity to afford California with it's own means to address issue unique to California. And while I do not fault my colleagues in their decision to wait for the federal government to take the lead in this instance, I believe we are better served to set for our own home grown plans.

Sincerely yours,

Barry A. J. Fisher

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