



# National Forensic Science Reform and Legislative Updates

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## Overview

- Update on the Leahy Forensic Science Reform Bill
- Review of the “White House” IWG’s
- Review of CA Legislative Bills
- A look at a novel model for forensic science reform
  - Discussion and Feedback



## The Leahy Bill

S. 132: Criminal Justice and  
Forensic Science Reform Act of 2011

### Leahy Bill (S.132)

- Since the release of the NRC (NAS) report in Feb 2009, there has been a great deal of activity in Washington DC related to forensic science
- Stakeholder roundtable meetings were held by the Senate Judiciary Committee
  - CFSO and Innocence Project being most active
- The Senate Judiciary federal crime lab reform language was released for comment on May 5, 2010 and send to the membership

## Leahy Bill (S.132)

- The Senate Judiciary federal crime lab reform bill (S.132) was released on December 22, 2010
- Introduced into Congress on January 25, 2011

## S. 132: Criminal Justice and Forensic Science Reform Act of 2011

- Creates an Office of Forensic Science within DOJ
  - Director appointed by DOJ
  - Deputy Director appointed by NIST
- Creates a Forensic Science Advisory Board
  - 19 members with science, forensic science and related backgrounds
- Creates Forensic Science Committees
  - 9 members each with science and forensic science backgrounds

## S. 132: Criminal Justice and Forensic Science Reform Act of 2011

- Timelines from enactment for
  - Defining forensic science and its disciplines and personnel (1 yr)
  - Accreditation requirements (18 mo)
  - Certification requirements (18 mo)
  - Research strategies (18 mo)
  - Reporting activities to Congress (2 yrs)
  - Educating judges, attorneys (3 yrs)
  - Educational program changes (3 yrs)
  - Medical Examiner reforms (3 yrs)
  - National Code of Ethics (3 yrs)

## Leahy Bill (S.132)

- The Senate Judiciary federal crime lab reform bill (S.132) was released on December 22, 2010
- Introduced into Congress on January 25, 2011
- The last roundtable meeting was held March 22, 2011
- This bill or resolution is in the first stage of the legislative process
  - Most bills and resolutions are assigned to committees which consider them before they move to the House or Senate as a whole



## The “White House” IWG’s



## The “White House” IWG’s



## Subcommittee on Forensic Science

- Created to address the concerns raised in the 2009 NRC (NAS) report
- “Charged with developing practical and timely approaches to enhancing the validity and reliability of the federal government’s forensic science activities.”
- Includes regional, state and local entities to facilitate coordinated efforts
- Chartered in Mar 2010; sunsets Sept 2011

## SoFS - IWG's

- Five interagency working groups, which convene with the purpose of exchanging views, information, and advice relating to the management and implementation of Federal programs relating to forensic science
- Note: Non-binding at the state and local level

## The Five IWG's



## The Five IWG's

- **Accreditation and Certification (AC)**
  - Include Proficiency Testing
  - CACLD is represented by Dean Gialamas
- **Standards, Practices and Protocols (SPP)**
  - Inventory existing standards/best practices/guidelines/protocols, including those relating to identification, collection, preservation, analysis, evaluation, comparison, interpretation, terminology, and reporting.
  - Recommend processes for conducting a gap analysis, improving existing standards and protocols, and developing new standards and protocols where needed.
  - CACLD is represented by Wes Grose
- **Research, Development, Testing and Evaluation (RDT&E)**
- **Outreach and Communication (OC)**
  - Outreaching to, gaining input from and providing feedback to forensic science and criminal justice organizations; state, local and private practitioners; and other stakeholders
- **Education and Ethics (EE)**
  - Forensic science education, ethics and terminology

## IWG Process

- Topics are right from the NRC (NAS) report
  - May include: bias, accreditation (laboratory and education), certification, research, code of ethics, scientific advisory bodies (e.g., SWG's) and many other topics!
- All work is pre-decisional and confidential
- Meetings are closed, but guest speakers are invited by the IWG's
- Work product is a recommendation to the SoFS



## State Legislative Update

Bills Tracked by CACLD  
Related to Forensic Science

## Legislative Representative Changes

- December 2010, Nick Warner and associates of Warner & Pank was hired to represent CACLD's interests
  - Full-time Legislative Analysts
    - Danielle Higgs and Braeden Weygandt
- Since December 2010, flurry of bills related to crime labs

## Review of Bills Tracked by CACLD

- **AB 239** – Ammiano– Crime Lab Oversight
  - Reconvening the CA Crime Lab Task Force
    - 9/20 – On Governor's Desk for signature
- **AB 322** – Portantino – Forensic Evidence
  - Rape kit reporting requirements
    - Now turned to a pilot SAK testing project for DOJ
    - 9/14 – On Governor's Desk for signature
- **AB 434** – Logue – County Penalties
  - Adds provision of testing by other LE agencies using Prop 69 funds
    - 8/30 – Signed into law by Governor
- **AB 674** – Bonilla – Vehicle Registration Fees
  - Eliminates the SB 720 sunset clause (1/1/2012) for VC 9250.19 for CAL-ID funds
    - 9/1 – Signed into law by Governor

## Review of Bills Tracked by CACLD

- **AB 855** – Ma – DNA Testing
  - Deletes PC 14250 DNA database confidentiality and adds provision for DNA sample testing by authorized independent laboratories (FAILED)
    - Dead bill as of 4/20
- **AB 1053** – Gordon – Local Penalties and Fines
  - Intent was to increase drug/alcohol fines from \$50 to \$200
  - Then reduced to \$100 in April amendments
  - Then deleted altogether in May amendments
    - 9/22 – On Governor’s Desk for signature
- **SB 248** – Wyland – Qualifying offenders
  - Adds juvenile welfare code violators (FAILED)

## Review of Bills Tracked by CACLD

- **AB 271** – Wyland – Expedited Rape Kit Process
  - Requires SAKs to be submitted ≤10 days and testing ≤6 months and adds provision for non-DOJ lab testing (FAILED)
- **AB 239** – Correa – County Penalties – Late Fees (FAILED)
  - Penalties for late payment of court fines
- **AB 534** – Corbett – Victims of Sexual Assault
  - Victims not required to participate in SAK exams
    - 9/9 – On Governor’s Desk for signature

## CACLD Activity

- Worked with Warner and Pank staff to provide comments on AB 239, AB 322, AB 434, AB 674, AB 1053 and SB 271
- AB 434 was so substantially re-written by CACLD that our verbiage was substantially accepted and used by the author
- AB 434, AB 855 and AB 271 are competing bills that change the same portions of the penal code

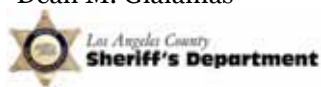
## AB 239 (Oversight) Discussion

- Substantial Re-Write earlier this week
  - Reconvene CA Crime Lab Review Task Force
  - On or before July 1, 2013, proposal for composition of statewide oversight body
  - Implement federal legislation guidelines
  - Oversee investigations of allegations of misconduct or negligence by employee or contractor of a crime lab
  - Collect data in investigations for root cause
  - Identify systemic failures and make recommendations
  - Facilitate communication
  - Make recommendations on allocation of resources
  - Membership remains the same



## A Novel Look at an Existing Oversight Model for Forensic Science

Dean M. Gialamas



CACLD Spring Seminar  
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Bakersfield, CA

### Disclaimer

- The views expressed in this presentation are the views of the speakers and do not necessarily reflect the views or policies of the Los Angeles County Sheriff's Department, or the US Government or any of its agencies or branches, including the National Science and Technology Council and its committees.

## NAS Report Recommendations

- **Independent federal entity - (NIFS)**
  - **a full-time administrator**
  - **an advisory board with expertise in**
    - **research and education,**
    - **the forensic science disciplines,**
    - **physical and life sciences,**
    - **forensic pathology, engineering,**
    - **information technology,**
    - **measurements and standards,**
    - **testing and evaluation,**
    - **law,**
    - **national security, and**
    - **public policy**

## NAS - NIFS Duties

- **Establishing and enforcing best practices**
- **Accreditation and Certification**
- **Peer-reviewed research and technical development**
- **Research and educational programs**
- **Forensic methodologies and practices**
- **Advance the credibility and reliability of the forensic science**
- **Education standards**
- **Improve understanding of the forensic science disciplines and their limitations**
- **Development and introduction of new technologies**

## The Menu of Choices ...

### Current Forensic Options

- CA Crime Laboratory Review Task Force
  - 17 members (4)
- Leahy Legislation
  - 19 members (5+2)
- Or??

### Existing Professional Models

- Barbers and Beauticians
  - License, Exams, Inspection and Enforcement
  - 6 members (2)
- Medical
  - License, Exams, and Investigation of Complaints
  - 15 members (8)
- Legal
  - License, Exams, and Investigation of Complaints
  - 23 members (16)

## Unique Needs for Forensic Science

- Stakeholders are adversarial
  - Truth v. Justice
- Knowledge work
  - Insulted, degraded and contaminated raw materials
- High Reliability Organizations
  - Consequences mean life and liberty decisions
- Real Science or Applied Science?
  - The academic debate

## Oversight Model Needs



## Transportation Industry

- NTSB – created in 1967
  - Investigations and Reports (recommendations)
    - Reports cannot be used in courts
  - Independent entity
    - One mission: *promoting transportation safety for the traveling public*
  - Advisory, non-regulatory
    - Has no ability to regulate, fund, or be involved in the operation of any mode of transportation
  - 5 members (3)

## Transportation Industry

- FAA (as one example)
  - Licensing, Certification, Airport Inspections, Regulation & Polices, and Training
  - Governmental Agency (regulatory)
  - No members, but all key staff / officials are
    - trained pilots
    - transportation experts
    - transportation industry employees (e.g., finance)

## The Connection to Forensic Science

### National Traffic Safety Board - NTSB

- Investigations and Reports
- Independent entity
  - One mission: *promoting transportation safety for the traveling public*
- Advisory, non-regulatory
- Blend of experts and stakeholders

### National Forensic Science Board – “NFSB”

- Investigations and Reports
- Independent Entity
  - One mission: *promoting forensic science for the criminal justice community and the public*
- Advisory, non-regulatory
- Blend of experts and stakeholders

## The Connection to Forensic Science

### FAA, NHTSA, FRA, and other bodies

- Licensing, Certification, Inspections, Regulation & Polices, and Training
- Governmental Agency (regulatory)
- ALL key staff / officials are from the industry

### ASCLD/LAB, IAI, SWG's and other Forensic "Bodies"

- Accreditation, Certification, Practices & Protocols, and Training
- Existing forensic science professional bodies (regulatory)
- ALL staff are from science and forensic science
  - e.g., SWG's, TWG's

## Dialogue and Feedback

- Is anyone offended by the recommendations?
- Can they work for Forensic Science?
- What do we need to improve this model and take it to the next step?



Thank You!



Additional Comments or Feedback to:

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