



# NEWLETTER California Association of Criminalists NEWLETTER

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MARCH 1981

## CONTENTS

President's Message - Responsibilities of Membership in the CAC .....	2
Editor's Comment - The CAC and the Journal .....	3
Announcements .....	3
Statement on the Preservation of Biological Evidence ...	4
Spring Elections - Nominations .....	4
Membership Matters .....	5
Employment .....	6
Ethical Dilemma - Peter Barnett .....	7

## This mailing includes the following items:

1. Proposed By-Laws Changes
2. Correction of By-Laws amendment distributed with the last Newsletter. Please substitute in your copy of the By-Laws.
3. Statement of revised ethics procedures.
4. Board meeting minutes, 5 Nov. 1980.
5. Business meeting minutes, 7 Nov. 1980.
6. Board meeting minutes, 5 Dec. 1980.
7. Proxy for Spring Seminar. IF YOU CANNOT ATTEND THE SEMINAR, PLEASE EXERCISE YOUR PROXY.

REMEMBER THE SPRING SEMINAR, 15 - 17 May, Pasadena Hilton.



## PRESIDENT'S MESSAGE

### RESPONSIBILITIES OF MEMBERSHIP IN THE CAC

Membership in the CAC requires adherence to the code of ethics from each member. The need for ethical practice stems from the impact of our work on the lives of others which may lead to the taking of life or liberty from these individuals. This places a burden on us to follow the ideals and the restrictions of our own code of ethics.

The first responsibility we have toward ethical practice is to insure the qualification of our members to practice. In the absence of any formal standards of training, performance or testing, the code of ethics assumes an important role in the maintenance of acceptable standards of practice by the requirement that our members will not mislead the trier of fact regarding our qualifications. This is an important feature of the code of ethics which serves to allow the trier of fact to properly assess the weight to be given to our evidence. The tendency of lay people to give greater weight to "scientific" evidence than it deserves will be minimized where the witness gives an honest account of his training and experience.

A second responsibility is to insure that we are properly qualified to perform the examinations we are asked to do. This is a difficult task owing to the wide variation of experience and training amongst the criminalists performing the same work. What is the minimum quantity and quality of training necessary? What is the standard by which we can judge whether we have received adequate training and experience? These are difficult questions, but they are essential to the concept of ethical practice. Poorly qualified individuals can make errors of omission or commission which have the same net effect as an individual who "slants" their testimony. Should we refuse to do a case our supervisor has asked us to do? Can we? Are we sacrificing quality for security?

The third responsibility we have as members is to report serious or repeated infractions by other members. Oftentimes, it is difficult to distinguish an honest difference of opinion from an unethical act of one of the parties. Other times, an obvious act of unethical conduct has occurred, and it becomes our responsibility to report the infraction to the President for investigation. The investigation thereby becomes the responsibility of the ethics committee for presentation to the hearing board, where the investigation indicates an infraction has occurred. Without the initiative of the membership, the code of ethics would become a hollow instrument for insuring the ethical practice of the members.



## EDITOR'S COMMENT

### THE CAC AND THE JOURNAL

For over a decade, the CAC has had a special relationship with the Forensic Science Society of Great Britain. The Journal of the FSS is recognized as our official organ and we possess essentially independent editorial control over the papers we submit. We help support the Journal with our blanket subscription.

Over the past several years, there has been some disillusionment with this relationship, principally arising from the sporadic publication of the Journal; at one point, it was some two calendar years behind. Many members felt that since the Journal was so irregular, we should drop our group subscription.

We were not alone in our concern. It was shared by the FSS itself, and they provided the editor with a greatly needed staff to facilitate production. As a result, the Journal has done substantial catching up and anticipates being up-to-date this year. The time from article submission to publication is 8-10 months which is relatively good compared to other science journals.

However, you can't publish a journal without papers and the fact of the matter is that the CAC has contributed only three or four papers to the Journal over the last few years. The editor of the Journal has recently written asking what has happened to the flood of papers the CAC was going to submit once the Journal got on form. I don't know; I haven't seen the flood either. In any case, the message is clear: we should contribute some papers if we want the Journal to get caught up. Put simply, we will get out of the Journal in proportion to what we put into it.

Regardless of how we respond to the paper shortage, we are soon to face a new issue sure to elicit a new round of dissatisfaction, an increase in Journal subscription rates. Our current rate is \$15 per year and has remained constant for the last six years. This rate is about half the non-member rate. Our treasurer has recently received a letter from their treasurer suggesting that our subscription rates increase in steps over the next two years to \$30 per year; this would still be a discount rate. We basically have two options: accept the increase or sever relations with the FSS.

It is thus apparent that the Journal issue is coming to a head, and we should be prepared to discuss it at the spring seminar.

## ANNOUNCEMENTS

### 1. Correction of Semen Analysis Handout

The handout describing a systematic procedure for semen analysis distributed at the Yosemite seminar by Ed Blake contained an error. The isotris buffer should be titrated to pH 7.4. If the solution is made as described in the handout, it will have a pH above 10 which would inactivate most enzyme activities.

### 2. The Criminalist's Sourcebook

Bill Eckert of INFORM has prepared a number of bibliographies on various topics in the forensic sciences of which the above title is one. The bibliography is indexed. It may be ordered from Dr. William Eckert, Laboratory, St. Francis Hospital, Wichita, KA 67214.



# STATEMENT ON THE PRESERVATION OF BIOLOGICAL EVIDENCE

[Ed. Note. The preparation of a statement of principle regarding biological evidence preservation was mandated by the membership at the Spring 1980 seminar. The task of drafting the statement was given to the Serology Study Groups, North and South, and was to have been presented at the Fall 1980 seminar. The matter was overlooked at the Fall seminar and accordingly the statement is presented here.]

Physiological evidence materials deteriorate with the passage of time. It is desirable that such evidence be examined as soon as possible after collection. However it is recognized that it is not always practical, possible, or necessary to do so.

In general, enzyme activity and other protein markers in body fluids are more long-lived in stains stored frozen than in stains stored at room temperature. Frozen storage does not prevent deterioration but does slow down the process. For example, there is experimental data showing that some enzyme markers in stains are lost within a few weeks when stored at room temperature but may be typable after years in frozen storage. Hence, biological evidence can be stored for however long a period it is considered to have useful evidentiary value.

Inconclusive results or absence of activity is not necessarily proof that a sample has been improperly preserved. Some case materials examined as soon as possible after collection may also give negative or inconclusive results.

## SPRING ELECTIONS - NOMINATIONS FOR OFFICES

The following persons have indicated their willingness to run for office. Additional names may be added to the list before the spring seminar.

<u>President-Elect</u>	Paul Dougherty Fred Tulleners	San Mateo Co. S.O. DOJ-Riverside
<u>Treasurer</u>	Kathy Holmes Duane Lovaas Sandy Wiersema	Contra Costa S.O. DOJ-Modesto Orange Co. S.O.
<u>Editorial Secretary</u>	George Sensabaugh	Cal Berkeley
<u>Regional Director-North</u>	Benny Del Re Gordon Deeg Mary Gibbons Lance Gima	San Mateo Co. S.O. San Mateo P.D. Forensic Science Associates DOJ-Santa Rosa
<u>Regional Director-South</u>	Jim Stam Norm Wallis	San Diego P.D. Santa Barbara S.O.



## MEMBERSHIP MATTERS

ATTENTION STUDENT AFFILIATES

Bylaws changes approved at the November 1980 business meeting make it obligatory that you notify the Membership Secretary once each year of your student status and address. Your affiliate membership will be terminated unless you comply before Nov.

If you wish to retain your Affiliate status, you should write a note including your name, the name of the college or university you are currently attending, the anticipated year of completion, major, status as undergraduate or graduate, and your current mailing address. Send your note to Dorothy Northey, Contra Costa County Crime Lab, P.O. Box 391, Martinez, CA 94553.

NOTICE TO PROVISIONAL MEMBERS

This is a reminder to those who now meet or will meet the requirements for elevation from Provisional to Member by the May seminar.

To be considered for elevation you must be a Provisional Member for a minimum of one year and fulfill one of the three activity requirements listed below.

1. In one year, attend one seminar and at least four local meetings either section or study group or;
2. In three years, attend three seminars and deliver a scientific paper or;
3. In three years, attend one seminar and actively serve on at least one committee.

If your name appears on the following list and you have met one or more of the activity requirements, you may petition for elevation. To do so, write a letter to the Membership Secretary describing in detail what you have done in fulfillment of the requirement.

Persons who will have been Provisional Members one year or more by the time of the May seminar are

Craig Anderson	Barbara Johnson
Robert Brinkman 76	Jeanne Kilmer 79
Lawrence Buer 76	Jerry Massetti
Steven Dowell	Theresa Spear
Joseph Fabiny	Kenneth Van Cleave
Walter K.W. Fung	Norman Wallis
Alene Games	Eugene Wolberg
Carol Harralson	

Mail your letter to Dorothy Northey, Contra Costa County Crime Lab, P.O. Box 391, Martinez, CA 94553. It should be received before the end of April so there will be ample time for review and Board action. This is your only vehicle for elevation since nominations are no longer acceptable from the floor at a business meeting.

NOTICE OF NOMINATION FOR LIFE MEMBERSHIP

The Board of Directors has approved the nomination of Allan Gilmore to Life membership in the CAC. This type of change in membership classification is considered an honor when granted. It will be presented to the membership for a vote at the Spring seminar.

Allan joined the CAC in 1957, approximately two years after the Association came into being. He worked as a criminalist for what was once called the CII Lab (now DOJ Sacramento), and went on to become the Director of the Sacramento County D.A.'s Laboratory. During his career he has presented a number of seminar papers and hosted



or co-hosted three seminars for the CAC. He served on the Board of Directors as Treasurer and was active in the past in committee work. Recently he retired from his position as Director of the Sacramento County Laboratory.

#### ROSTER ADDITIONS, DELETIONS, OR CORRECTIONS

Add Student Affiliate Barbara Crosby  
655 Howe Ave. #8  
Sacramento, CA 95825

Delete the following:  
Office addresses for retired members Robert Kwick and Allan Gilmore.  
All addresses for resigned members Rodney Andrus, Gary Gonzales, and Benjamin Grunbaum.

Change the following:  
Home address for David Burd to 4820 Concho Court, Sacramento, CA 95841  
telephone (916) 487-4660

Addresses for Robert Cranston  
CA DOJ  
Eureka Lab  
College of the Redwoods  
Building T-40  
Eureka, CA 95501

P.O. Box 824  
Fortuna, CA 95540  
(707) 443-0549

Business address for Peter Barnett to P.O. Box 8313

Addresses for Eugene Wolberg  
San Diego PD Crime Lab  
801 West Market St.  
San Diego, CA 92101  
(714) 236-6505

833-C Del Mar Downs Rd.  
Solana Beach, CA 92075  
(714) 481-9935

Agency address for Celia Hartnett  
CA DOJ  
820 Francis Botello  
Goleta, CA 93107  
(805) 964-8741

Addresses for Gary Sims  
Institute of For. Sci.  
610 16th St. Suite 307  
Oakland, Ca. 94612  
(415) 451-0767

710 Monterrey St.  
Vallejo, CA 94590  
(707) 554-4685

#### EMPLOYMENT OPPORTUNITIES

1. Opening: Lab Director - Sacramento County D.A.  
Requires B.A. or B.S. in chemistry, biochemistry, physics, or criminalistics and four years experience in analytical lab work of which two years must be forensic lab work. Contact: R. Dee Reynolds, Chief Investigator, District Attorney's Office, P.O. Box 749, Sacramento, CA 95804.
2. Position Wanted: John P. Durina  
Forensic science major, Cal State Sacramento; to graduate, June 1981.  
Address: 2511 Northrop #15, Sacramento, CA 95825.



## ETHICAL DILEMMA

*Peter D. Barnett*  
*Forensic Science Associates*

Previous ethical dilemmas have generally dealt with problems resulting from the examination of evidence by potentially opposing experts. In this issue a situation involving a potential ethical dilemma for a laboratory manager will be presented.

Routine maintenance of Breathalyzers occasionally results in a Breathalyzer being found to be malfunctioning due to a sticky piston in the breath sampling chamber. Between the preceeding maintenance check, at which time the instrument functioned properly, and the time the defect was noted, a number of tests may have been given. At a trial of an individual arrested during this period the Prosecutor requests an expert from the lab to testify as to the operation of the machine and the interpretation of the determined blood alcohol level.

Some of the laboratory staff feel that the malfunction of the breathalyzer could only result in the determined blood alcohol level being low since the breath sample was, if anything, smaller than it should have been. Other members of the laboratory staff feel that, since the instrument did not function properly, the error, if any, in the determined blood alcohol value cannot be determined.

It is not necessary to consider, for this discussion, the correctness of either of these positions. It can be assumed that, no matter what their view, all the staff members can adequately defend their position. The essence of the conflict of views is not a technical difference of opinion concerning the operation of the Breathalyzer. Rather, it is a philosophical difference of definitive data. It is assumed that members of the laboratory staff who might be called to testify are equally well qualified and are convinced of the correctness of their opinions on the issue.

The prosecuting attorney will, of course, want a witness who will not jeopardize his case - in this instance an expert who feels that the BA values are, if anything, low. The prosecutor may request that a particular witness be the one who is sent, or that a particular witness not be sent. The manager whose responsibility includes assigning the court appearance may want to send a witness who will say what the prosecutor wants to hear, or avoid sending a witness that may present a problem for the relationship between the laboratory and the prosecutor's office.

Assuming that it is the proper role of the laboratory manager to determine which of the staff will testify, what is the manager's ethical responsibility? Is there a conflict between ethical responsibility and management prerogative?

The following alternatives are proposed:

(1) The manager can accede to the prosecutor's request. If he does, does this constitute "assisting the contestants" in this case?

(2) The manager can try and convince the members of his staff who feel the test is uninterpretable that their position is incorrect. How much pressure can be legitimately applied to these staff members? If the individuals on both sides of the question are firmly convinced they are "right", what steps can or should the manager take?

(3) The requests for a witness should be handled without regard to the Prosecutor's wishes or the different views on the evidence held by various staff members.

In evaluating these alternatives the manager must weigh his management responsibilities as well as his ethical responsibilities. Is the overall function of the laboratory jeopardized by a lack of uniformity of opinions among the staff? Is it proper for the laboratory staff to alter their opinions due to pressure from a superior? Is there support in the CAC Code of Ethics for criminalists who feel they are being coerced to state opinions they do not hold?

The responses to December's ethical dilemma generally expressed the opinion that the DA's tactics were ignoble, but that the criminalist would have to answer the question if it was directly asked. The respondents did not feel that there was an ethical question involved: The questions should be answered (Section III, J of the Code of Ethics) to the best of the witness's ability. The respondents point out that it is not up to the criminalist to decide what questions can be asked, or what tactics can be used by the attorneys.



Responses to the April ethical dilemma:

I would select alternative \_\_\_\_\_.

The controlling section(s) of the CAC Code of Ethics is \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Comments:

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Forensic Science Associates  
P. O. Box 8313  
Emeryville, CA 94608