



NEWLETTER California Association of Criminalists NEWLETTER

MARCH 1985

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This mailing also includes the following items:

1. Business Meeting Minutes, Oct. 26, 1984 (for approval).
2. Board Meeting Minutes, Oct. 24, 1984 (approved).
3. Board Meeting Minutes, Jan. 11, 1985 (approved).
4. Proxy form for Spring Seminar.
5. Abstract Form for Spring Seminar.

Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position of the California Association of Criminalists.

UPCOMING MEETINGS

ACS Symposium on Analytical Methods in Forensic Chemistry

April 29 - May 2, 1985. Miami, Florida. Contact: Dr. M.H. Ho.
(205) 934-4747.

California State Division - IAI

May 1985. Long Beach, CA. Contact Bill Corson; 3042 Baltic
Avenue; Long Beach, CA 90810. (213) 590-7205.

Northwestern and Southwestern Associations of Forensic Scientists

May 2-4, 1985. Denver, CO. Contact: Richard Lehmann. (303) 759-
1100.

California Association of Toxicologists

May 3-4, 1985. Newport Beach, CA. Contact: Lee Knight; American
BioScience. (714) 750-0502.

Mid-Atlantic Association of Forensic Scientists

May 10-11, 1985. Washington, D.C. Marriot Hotel. Contact: Mary
Lou Fultz; Bureau of ATF; 1401 Research Boulevard; Rockville, MD
20850. (202) 294-0420.

Mid-Western Association of Forensic Scientists

May 15-17, 1985. Lansing, MI. Contact: John Juhala (Computer
Workshop) (517) 777-9300. David Metzger (Fiber Workshop) (815) 727-
5301.

Association of Firearm & Tool Mark Examiners

May 13-17, 1985. Michigan State Police Academy. Contact: James
Berglund (517) 348-5449.

CALIFORNIA ASSOCIATION OF CRIMINALISTS - SPRING SEMINAR 1985

May 17, 18, 19, 1985 (Friday, Saturday, Sunday). Oakland, CA.
Hyatt Regency Hotel. Hosted Jointly by the Oakland Police
Department Crime Laboratory and the University of California,
Berkeley. Contact: Jan Bashinski; Oakland Police Department Crime
Lab; 455 7th Street, Rm 608; Oakland, CA 94607. (415) 273-3386.

International Association for Identification

July 21-25, 1985. Savannah, GA. Contact: Jerry Findley (912)
352-7780 Ext. 42.

International Symposium on Forensic Hair Comparisons

July 25-27, 1985. Quantico, VA. Contact: Kenneth Nimmich
(703) 640-6131.

International Symposium on Questioned Documents Examinations

July 30-August 1, 1985. Quantico, VA. Contact: Kenneth Nimmich
(703) 640-6131.

UPCOMING MEETINGS (Continued)

California Association of Toxicologists

August 3, 1985. Sacramento, CA. Contact: Ron Briglia;
Consolidated Medical Lab. (916) 441-0186.

Electron Microscopy Society of America / Microbeam Analytical
Society - Joint Meeting

August 5-9, 1985. Louisville, KY. Contact: S. Basu; New York
State Police Headquarters; Crime Laboratory; Building #22, State
Campus; Albany, NY 12226. (518) 457-1208.

Society of Forensic Haemogenetics - 11th International Congress

August 6-10, 1985. Copenhagen, Denmark. Panum Institute of the
University of Copenhagen. Contact: Spaddile Congress Service;
Sommervej 3; DK-3100 Horbaek, Denmark. (The official language for
the congress is English.)

CALIFORNIA ASSOCIATION OF CRIMINALISTS - FALL SEMINAR 1985

October 24, 25 & 26, 1985. Los Angeles, CA. New Otami Hotel.
Hosted by the Los Angeles Police Department Criminalistics
Laboratory. Contact: Greg Matheson; Los Angeles Police Department;
150 N. Los Angeles Street, Room 435; Los Angeles, CA 90012. (213)
485-2535.

Canadian Society of Forensic Science / Society of Forensic
Toxicologists / American Society of Questioned Document Examiners

September 20-27, 1985. Montreal, Quebec. Hyatt Regency Hotel.
Contact: Executive Secretary; Canadian Society of Forensic Science;
2660 Southvale Crescent, Suite 215; Ottawa, Ontario, Canada
K1B 4W5. (613) 731-2096.

American Academy of Forensic Sciences

February 11-15, 1986. New Orleans, LA. Hyatt Regency Hotel.
Contact: AAFS; 225 S Academy Boulevard; Colorado Springs, Colorado
80910. (303) 596-6006.

CALIFORNIA ASSOCIATION OF CRIMINALISTS

May, 1986. Hosted by the Contra Costa County Criminalistics
Laboratory. Contact John Patty; Contra Costa County Criminalistics
Laboratory; 1122 Escobar Street; Martinez, CA 94553. (415) 372-
2455.

International Association of Forensic Sciences

August 2-7, 1987. Vancouver, B.C. Contact: International
Association of Forensic Sciences; 801-750 Jervis Street, Vancouver,
B.C.; Canada V6E 2A9.

EMPLOYMENT OPPORTUNITIES

(Members actively seeking employment are encouraged to contact the Editorial Secretary to keep informed of employment opportunities arising between Newsletters. This is most important for those considering positions outside California. Also, for those positions listed there is often additional information which may be obtained from the Editorial Secretary.)

CRIMINALIST II. San Diego County Sheriff's Office.

Vacancy for Criminalist II. Salary Range \$27,800 to 33,800 per annum. Requires BS with major in criminalistics, chemistry, or biology and three years professional experience. For information and application forms call San Diego County Office of Employee Services: (619) 236-2191.

Resumes NOT accepted. Please call for application forms.
Announcement Closes May 9, 1985.

QUESTIONED DOCUMENT EXAMINER I. Utah State Dept. of Public Safety.

Salary Range \$23,150 to 33,578 per annum.

Requirements: "Requires a bachelor's degree with major study in police science, criminalistics, law enforcement, sociology, political science, biology, psychology, chemistry, or a related field, plus (4) years of full-time paid employment as a Questioned Document Examiner, Criminalist or a Category I police officer in a federal, state, or local law enforcement agency for the required college education. No substitutions for the four (4) years experience as a Questioned Document Examiner." [sic]

Contact Department of Public Safety Personnel Bureau: 4501 South 2700 West, First Floor, Salt Lake City, Utah 84119.

ANNOUNCEMENTS

Annual Meeting of the Regional Association Editors and Presidents

On February 13 at the Las Vegas AAFS Meeting there was the regularly-scheduled meeting of the Regional Association Editors and Presidents. The meeting is held once a year in conjunction with the AAFS meeting to promote contact among the regional associations and to conduct any joint business. Although the AAFS has agreed to act in a supporting role, the future of the meeting is entirely in the hands of the regional associations.

The meeting was sparsely attended and poorly organized. Two things were accomplished. 1) Responsibility for the next meeting was assigned to the Mid-Western Association of Forensic Scientists. 2) It was agreed that the rosters of each association would be kept at the American Academy office in case they are needed by members of other organizations.



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30 March 1985.

Dear Colleagues:

I am interested in hearing from anyone willing to serve on one of the CAC committees. As the Spring seminar nears, as does my term as President, I must make tentative committee assignments.

The committees provide an essential service to the Association and your contributions are necessary to keep them going.

Current standing committees are: Ethics, Awards, By-Laws, Historical, Public Health, Public Relations, Training and Resources, Nominating and Accreditation Liason.

Please feel free to call me regarding these committees and for that matter, regarding any part of the CAC's activities.

Hope to see you in Oakland !

Yours sincerely,

Stephen Cooper

ASSOCIATION ACTIVITIES

Northern Section Meetings

The Santa Clara County Crime Laboratory hosted a dinner meeting on March 7, 1985 at the Moffett Field Officer's Club. The dinner was attended by about 40 people and had a limited maximum attendance due to the capacity of the NASA tour which followed the meeting. The tour included a short lecture on the use of simulation, viewing of a Boeing 727 Aircraft flight simulator, and viewing of a simulator with a futuristic design.

The next Northern Section dinner meeting is scheduled for late April and will be hosted by the Institute of Forensic Sciences. Study group meetings will be held in conjunction with this dinner meeting.

Southern Section Meetings

A dinner meeting was held on January 17, 1985 at the Revere House in Tustin. The meeting was hosted by Carol Rhodes of California Laboratory of Forensic Science. The speaker was Dr. James Webb, a Vector Ecologist from Orange County Vector Control District. Dr. Webb spoke on entomological aspects of forensic cases. He reviewed the various stages of insect development, methods to search for insects, and dermatological paths of bites and stings. There were 36 people in attendance.

The next dinner meeting will be hosted by the Ventura County Sheriff's Office on March 21, 1985. The meeting will begin with a tour of the Ventura County Sheriff's Criminalistics Laboratory. A Drug Study Group Meeting will be held prior to this dinner meeting.

STUDY GROUP MEETINGS

(The following Study Groups are currently active. For further information regarding one of these groups, or to be placed on a mailing list, contact the member listed.)

South:

Drug	Darryll Clardy
Serology	Barbara Johnson, Carol Rhodes, Dave Sugiyama
Trace Evidence	Harley Sagara, James Bailey, Ernie Kuo

North:

Serology	Jan Bashinski
Trace Evidence	Marty Blake, Terry Spear

ASSOCIATION ACTIVITIES (Continued)

Trace Evidence Study Group - South (H. Sagara, J. Bailey, E. Kuo)

The group met on January 17, 1985 prior to the dinner meeting. There were 18 people in attendance. The discussion was about a new organizational format for the group. There was an informal exchange of interesting cases.

The group will meet on March 28, 1985 to tour Van's Shoe Factory in the City of Orange. The factory manufactures and processes tennis shoes.

Trace Evidence Study Group - North (T. Spear, M. Blake)

The next meeting is scheduled for March 21, 1985 at the Oakland Police Department. Dr. Henry Libby from Libby Laboratories will be lecturing on cosmetics.

Another meeting will be held at the dinner meeting to be hosted by the Institute of Forensic Sciences. The topic will be Video Microscopy and documentation of analyses.

Drug Study Group (D. Clardy)

The group met prior to the Southern Section dinner meeting with 20 people in attendance. Barry Fisher presented a paper on "Laboratory Management: Preliminary Analysis of Narcotics Evidence" which he had given at the AAFS meeting. There was also a discussion of papers which were presented at the International Association of Forensic Sciences meeting in Oxford, England.

Serology Study Group - South (B. Johnson, D. Sugiyama, C. Rhodes)

The group met on March 13, 1985 at the Santa Ana Administration Building to review the SERI Semen Analysis Course which was recently attended by several of the members. Papers that were heard at the AAFS meeting in Las Vegas were also discussed.

Serology Study Group - North (J. Bashinski)

The next meeting is scheduled in April, to be held in conjunction with the dinner meeting at the Institute of Forensic Sciences.



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REPORT ON CACLD MEETING OF NOVEMBER 8-9, 1984 FOR
CAC BOARD OF DIRECTOR'S MEETING OF JANUARY 11, 1985

The following is a synopsis of the presentations and
comments made at the CACLD meeting.

RAGEL (CCSO) - ASCLD

Quality Assurance Programs - There are four ways
of proving you have a quality assurance program.
These methods are the Absolute, Approved, Litera-
ture and Home Brew methods.

England uses blind testing, duplicate analysis
and internal standards. Their program takes 20%
of total lab time. The FBI has a similar program
with feedback to the analyst.

Possibilities exist for reciprocal blind tests
with other agencies.

FBI Questioned Documents - Bill Henshaw using
image enhancement with some of his work.

Clandestine Labs - DEA (New York) says hot areas
are L.A., Southern Calif. and Houston.

Committee on Methodology - Something should be
done on methodology but what, not known. There
are agencies outside the forensic community look-
ing at the area (AOAC, ASTM, NACCO). The committee
is looking at ways of testing methods rather than
having standard methods. There is a question of
what type of data should be expected from an
analyst before a method is accepted.

FISHER (LASO)-ASCLD

Forensic Planning Committee - The committee is
looking at training manuals and reviewing FBI
research. The FBI is scheduling symposia on "Hair"
in June 1985 and "Questioned Documents" (other than
handwriting) in July 1985. They are also giving
symposia on "Driving Under The Influence of Alcohol
and Drugs" and "Physiological Fluids" in '85 or '86.
The FBI is looking into the possibility of supply-
ing hair and blood reference standards.



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The Bureau intends to do some follow up testing to see if methods are being used or knowledge transferred.

The FBI is hesitant about being in the forefront of the Grunbaum situation.

The FBI will work with lab directors regarding substitutions if the director will contact them with changes in priority. They want to purge applications when no longer applicable and the directors should keep track of the applications within their own labs.

NOZIGLIA (Las Vegas Metro) - ASCLD

Liability Committee - An insurance broker is looking into liability insurance and a survey will be coming out.

DRAKE and RENFRO (DOJ)

CAL-ID (Calif. Automated Identification System) - DOJ is in the process of setting up this automated latent fingerprint system. The system will be composed of three data bases: master name index, automated fingerprint identification system, and automated latent print system. There will be two means of access to the system from various locations within the state. The retrieval systems are the remote access network and the digital image retrieval system. There will be three types of users with different types of terminals. These terminals are the verification only terminal, the local input terminal and the full use access agency.

TOGNERI (Washoe County Sheriff)

Accreditation Committee - The newest labs accredited are the University of Tenn. Toxicology Lab and four of the seven Michigan State labs. The items that are most often lacking are notes on case files to document results (i.e., IR spectra, serology notes) and manuals with methodology.



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MURDOCK (CCSO)

Quality Control/Quality Assurance - A quality assurance program must have documentation, assurance of accountability of data, chain of custody, documentation of traceability, and documentation of security. All work should be done in a book, in ink, no loose leaf, no white out and using only cross throughs for changes. A program needs proficiency samples that are both blind and voluntary to measure the overall operation and how good each individual can do. Methods need to be validated. Any program needs the backing of management and should have periodic audits. All of this requires a written program with a quality assurance manager. Other things that are included are sampling methods, calibration and maintenance logs and schedules, solutions and training records.

BASHINSKI (OPD)

Report Writing - Reports have minimum requirements. The general requirements would be that it have an examination section and a summary. In a results oriented report the summary would include a conclusion by the analyst. All reports should be backed up with records of all tests with narcotics testing having check sheets and photographs to back things up where necessary.

BUSINESS MEETING - CACLD

Proposed Ethics Statement to be adopted by CACLD - Motion -

In order to encourage and maintain the highest ethical standards all members shall use the CAC Code of Ethics as a guide in their own professional conduct and in the evaluation of their subordinates to whom it is applicable, and shall actively advocate adherence to the Code of Ethics.

Members shall institute appropriate corrective measures for any subordinate who fails to meet or maintain acceptable standards as defined by the Code of Ethics.

"Motion" tabled and a committee set up to review the proposal.



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Future Meetings -

January - two day meeting in North hosted by DOJ Sacramento.

April - two day meeting in the South hosted by San Diego.

July - one day meeting in the North hosted by Oakland.

October - one day meeting in the South hosted by San Bernardino.

Legislative Update

Mack (SCDA)

3108 - Recapture of Blood Alcohol funds - vetoed by Governor but changed to not include blood alcohol funds.

State controlled substances law changed to Federal law standard. This change adds 28 more controlled substances. This law is in effect now.

Drake (DOJ)

CACLD is going to become more politically active. Legislative advocacy through a lot of public relations.

CACLD will establish a policy on how to deal with legislation.

*A question was brought up as to whether CAC should adopt a similar policy or is CACLD enough?

Holmes (CCSO)

With regard to blood alcohol cases there is an effort being made to try to make it the defense's burden to produce the witness who drew the blood sample by using an affidavit form instead of the witness.

Ragle (OCSO)

11550 toxicology was added to the bill for a \$50 laboratory fee if convicted and also if diversion occurred. However, just prior to the bill passing the wording was changed to reflect only felony cases. An effort is being made to try to change the wording to reflect any conviction or diversion.



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DRAKE (DOJ)

DOJ Plan for Forensic Science in California -
An idea that DOJ would like to turn into a reality is to design a training and referral facility that would include a research component.

BAIRD (SBSO)

Case Load Reporting - Determine the information that is really necessary. This information is needed to justify the budgets and make decisions. Comparisons are needed from previous years in the areas of numbers of cases, types of cases, from whom submitted, time used, field work, laboratory time and equipment used, and court time. Determine how to receive and handle the data. Establish a data base and usable format on your computer.

RAGLE (OCSO)

Architectural Design of Two New Laboratories - Observations were made of the Cook County (Chicago) Laboratory (Sheriff-Coroner) where space was left for future planning and possible maximum need. A heavy emphasis was placed on storage with several areas left empty that could be converted for future use. A laboratory flammable liquid storage area was designed with an explosion roof in which, if an explosion occurs, the roof blows off but the walls remain. The other laboratory that was observed was the Atlanta State Laboratory where the interesting aspects were flow meters on the hoods and six foot access behind all laboratory walls for pipes and fixtures.

MARK (HBPD)

POST Approval for Private Training Course - Any course can be POST approved if the company has a full time office in California. The training course can then be certified. If no full time office then the course needs a sponsor before certification. Certification takes 30 days. The course will remain certified for five years.



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KUO (OCSO)

Government Laboratory Access by Private Defense Criminalists - If the ability of the analyst is questionable, keep a watchful eye on him. There is a question of liability also, but perhaps that can be signed off. How far can a defense expert be allowed to use the facility? A microscope is o.k. but not expensive instrumentation. Use equipment only when joint analysis following a conflict. Watch restricted areas. Should evidence be re-leased?

TOGNERI (WCSD)

Triaging of Caseload - Prioritize casework and work with district attorneys in continuing education. With advances it is becoming increasingly difficult to finish cases in a timely manner. Possibilities exist to break larger labs into smaller segments and have them become familiar with attorneys working in their area.

TOGNERI (WCSD)

Megabuck Equipment for Occasional Use - How Do We Justify It? - Use cost effectiveness curves and tie into programs that the administration likes. Use costs versus money making programs (i.e. DUI's or 11550's). Lease purchases are a good way to pursue instrumentation.

SIGLAR (LACCO)

Should CACLD Develop Position Papers on Critical Issues Confronting California's Forensic Science Laboratories? Position papers can be used to provide goals and alternatives. By using certain positions budget support can be derived. Support from other laboratory leadership can also be obtained. Suggested topics include personnel requirements for specialties, quality assurance programs, space allocations, field examination personnel recommendations, and training requirements.



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BASHINSKI (OPD)

Trial Court Decision - A recent trial court ruling indicated that it was up to the defense to choose how probabilities were presented. This stance was said to be dependent upon how the evidence is viewed as to the percentage or probability or absence of these as to how acceptable these are in court. Note that this is not case law but only a trial court decision and is therefore not binding.

NELSON (DEA)

Safety in the Laboratory - A video by the National Safety Council and Fisher Scientific with Jack Clugman. The video was for chemists, however, there were many applicable points. Physical exams should be required of all personnel of 40 annually and under 40 once every three years. These exams should be paid for by the agency involved. Psychiatric exams should be performed also if deemed necessary. Beware of load capacities within the laboratory. Infectious agents should not be handled improperly. Lab coats may carry some infectious agents or dangerous chemicals and should be laundered and kept at the laboratory and not taken home. Laundry should occur frequently so no build up can occur. No open toed shoes or high heels. Watch out for vapors. Monitor for chemical vapors or airborne samples. All employees should be trained in emergency procedures. Have a lab safety program stressing unsafe acts and conditions. Post emergency phone numbers. No eating, drinking or smoking in areas of analysis. Have safety seminars once each quarter.

STOINOFF (SAPD)

Where Have All the CAC Papers Gone? - Encourage people to do research. A beginning may be to encourage mini-papers at staff meetings in your own laboratories. It's only a little more effort to develop mini-papers into a paper for presentation.



California Association of Criminalists

It is with enthusiasm that I submit this report to the CAC Board of Directors. The practice of having the Regional Directors attend the CACLD meetings for the purpose of reporting back to the CAC Board has been well received. This practice spans part of an imagined gap between management and workers that is bridged by efforts like this program.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Eston Schwecke".

Eston Schwecke
Southern Regional Director

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Richard K. Rainey
 SHERIFF-CORONER

Warren E. Rupf
 Assistant Sheriff

Gerald T. Mitosinka
 Assistant Sheriff

To: *Grady Goldman*
Criminalist

Date: *March 13, 1985*

From: *John R. Patty*
Supervising Criminalist

Subject: *January 31 - February 1, 1985*
CACLD Meeting Report

Department of Justice and the Sacramento County Crime Lab hosted the meeting. CACLD President Bob Drake did not attend as he was tied up with other matters. Drake is now no longer in charge of DoJ's Bureau of Forensic Sciences and is now in charge of another Bureau. The new person in charge is Steve Helsley. He was present for a short time and was introduced to the group. On matters concerning CAC ...

Mr. Tal Jones from the Attorney General's Office spoke on Employee Relations. He discussed disciplinary actions and the need to have standards (behavioral anchors) to judge employee performance by.

Keith Smith from DoJ spoke on management principles and product excellence.

Bob Sager from DEA spoke briefly on Drug Lab jurisdiction. He indicated that DEA will not examine clandestine drug labs in local jurisdictions but will offer training in small groups. (2-3 day classes 3 to 8 people) He also offered to lend out their KBr pellet (window?) of L-Tartartic acid derivative of L-Cocaine so that local labs could run their own IR chart.

Al Biasotti gave an update on Breath Alcohol testing. See Kathi Holmes report. Ken Mack reported that Sacramento Co. has Intoxylizer 5000's in service. Biasotti gave out Mark Kalchik's analysis of AB3876 (attached)

Lou Maucieri spoke on quality assurance at DoJ. - See attached handout.

Jan Bashinski - gave a report on the activities of the Medical Protocol Committee. She told us that OCJP won't pay for production of a state wide uniform rape evidence kit. Also some police agencies have had difficulty with hospitals over the bills for the examination of victims. The group is working on revising the examination form.

The new officers of CACLD are: President, Frank Fitzpatrick; Vice President, Bill Baird; Secretary, Rob Stoinoff and Treasurer, Ken Mack.

JRP:ph



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OFFICE OF
PUBLIC HEALTH SERVICES LIAISON

REPORT TO THE BOARD OF DIRECTORS

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MARCH 14, 15, 1985

At last there is some activity to report in the area of alcohol analysis! On December 14, 1984, the National Highway Traffic Safety Administration published the new Federal guidelines for breath alcohol instruments, including provisions for instrument testing with a breath alcohol sample simulator (BASS). This is what the California Department of Health Services has been anxiously awaiting before adopting the Federal "Conforming Products List" as the California List of Approved Instruments.

The next step is for Department of Health Services to convene an Advisory Committee meeting to give final approval to the changes in Title 17 necessary to adopt the Federal guidelines. In preparation for the meeting, Department of Health Services has distributed to committee members 1) the published Federal guidelines, 2) an analysis of how these differ from current State regulations, and 3) the proposed Title 17 changes. I have attached a copy of the substantive proposed changes in Title 17 for consideration and comment, if anyone wishes. Copies of the other material will be provided if requested. No date has yet been set for the Advisory Committee meeting.

I have reviewed the proposed Title 17 changes and can find no problem with them. The proposed changes also eliminate any reference to captured breath samples as was decided by the Advisory Committee at its meeting December 14, 1982.

Department of Health Services also forwarded to me information on a breath alcohol training course sponsored by Indiana University and which is available on site for a minimum of 30 students for \$700 per student. Anyone interested in more information can contact me.

I am optimistic that the Advisory Committee will meet before the May seminar. However, any changes to Title 17 must undergo a hearing and review process. I do not expect the changes which would give approval for the use of instruments on the Federal list for at least six months.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kathryn J. Holmes".

Kathryn J. Holmes
Chairperson

KJH/smn

cc: CAC Newsletter

1221.1. Authorized Procedures. (a) Breath alcohol analysis shall be performed only with instruments and related accessories which meet the standards of performance set forth in these regulations.

(b) Such instruments may be used for the analysis of breath samples in places other than licensed forensic alcohol laboratories and by persons other than forensic alcohol supervisors, forensic alcohol analysts and forensic alcohol analyst trainees only if such places and persons are under the direct jurisdiction of a governmental agency or licensed forensic alcohol laboratory.

(1) Breath alcohol analysis by persons other than forensic alcohol supervisors, forensic alcohol analysts and forensic alcohol analyst trainees shall be restricted to the immediate analysis of breath samples collected by direct expiration by the subject into the instrument in which the measurement of alcohol concentration is performed.

(2) Except for the requirements of Section 1220.4, such immediate analysis shall not be subject to the requirements of Article 6.

(c) Breath alcohol analysis may be performed on samples which are collected with a sample capturing instrument designed for entrapment of a breath sample or for entrapment of the alcohol in a breath sample for later analysis.

(1) Whereas persons other than forensic alcohol supervisors, forensic alcohol analysts or forensic alcohol analyst trainees may perform sample capture, the actual later analysis of alcohol in captured samples to determine persons' blood alcohol concentrations shall be performed only by a licensed forensic alcohol laboratory using a method which meets the standards set forth in Article 6 of these regulations.

(2) The combined procedures of sample capture and later analysis shall have the ability to meet the standards of performance set forth in Section 1221.2.

History: 1. Amendment filed 11-24-75; effective thirtieth day thereafter
(Register 75, No. 48).

1221.2. Standards of Performance. (a) Instruments for breath alcohol analysis shall meet the following standards of performance:

(1) The instrument and any related accessories shall be capable of the collection and analysis of breath specimens which are essentially

alveolar in composition; conforming to the "Model Specification for Evidential Breath Testers" of the National Highway Traffic Safety Administration (Federal Register, Vol. 49, No. 242, Pages 48854 - 48872).

(2) The instrument shall be capable of analyzing a blank sample and of analyzing a suitable reference sample; such as air equilibrated with a reference solution of known alcohol content at a known temperature;

(3) The instrument shall be capable of the analysis of a reference sample of known alcohol concentration within accuracy and precision limits of plus or minus 0.01 grams % of the true value; these limits shall be applied to alcohol concentrations from 0.10 grams % to 0.30 grams %;

(4) The instrument shall be capable; in a controlled experiment; of breath alcohol analysis which results in a determination of a subject's blood alcohol concentration which has correlation with his actual blood alcohol concentration as measured on a blood sample taken at approximately the same time as the breath sample;

(5) The instrument shall be capable of breath alcohol analysis which results in a concentration less than 0.01 grams of alcohol per 100 milliliters of blood when alcohol-free subjects are tested.

(b) For sample capturing instruments there shall be the following additional standard:

(1) The alcohol concentration of captured samples shall be sufficiently stable that the requirements set forth in (a)(3) and (a)(4) above can be met when 14 days elapse between sample capture and later analysis.

(c)(b) The ability of instruments and any related accessories to meet conform to the standards of performance set forth in this Section shall be subject to evaluation tested by the Department: U.S. Department of Transportation.

History: 1. Repealer of subsection (b) and relettering of (c), (d), (e), (f) and (g) to (b), (c), (d), (e) and (f) filed 4-7-71; effective thirtieth day thereafter (Register 71, No. 15).
2. Amendment filed 11-24-75; effective thirtieth day thereafter (Register 75, No. 48).

1221.3 Instrument Evaluations: (a) On or after January 1, 1971, all

organizations selling or offering for sale instruments for breath alcohol analysis in this State shall register such instruments and related accessories with the Department.

(b) Such registration shall be made on forms furnished by the Department and shall set forth all pertinent information called for by the form in a manner which meets the Department's standards for approval.

(c) On or after January 1, 1972, only such types and models of instruments and related accessories as have been approved by the Department are named in the "Conforming Products List" published in the Federal Register by the U.S. Department of Transportation shall be used for breath alcohol analysis in this State.

(d) Approval or disapproval shall be based on laboratory evaluation by the Department of the abilities of representative items of such instruments and related accessories to meet the standards of performance set forth in Section 1221.2.

(1) It shall be the responsibility of an instrument's manufacturer, or the person requesting the evaluation, to make arrangements with the Department to have an instrument evaluated.

(2) The manufacturer, or the person requesting the evaluation, shall provide the Department with the instruments, related accessories chemical reagents, full directions and any other materials needed for the evaluation and shall provide the Department with such technical consultation as is necessary during the evaluation.

(e) The Department shall report the results of the evaluation to the manufacturer or the person requesting the evaluation, and shall have rights of promulgation of the results.

(f) The Department shall not accept for evaluation any instrument or procedure for which analysis is made esoteric by reasons of secrecy, commercial unavailability or incomplete directions.

(g) The Department shall not accept for evaluation any instrument or accessory for which the information, data and documents submitted with the registration fail to support a judgment by the Department that the instrument or accessory is in ostensible compliance with the requirements of these regulations when operated according to the manufacturer's directions.

(h) On or after January 1, 1972, the Department shall provide on request a list of instruments and related accessories approved for breath alcohol analysis.

(i) Approval by the Department of a particular type and model of instrument or accessory shall signify its approval of all such instruments and accessories which are of the same type and model as those instruments and accessories actually subjected to laboratory evaluation by the Department.

(1) The Department may also approve modified versions of such approved instruments and accessories when, in the judgment of the Department, the modifications do not alter the abilities of such instruments and accessories to meet the standards of performance set forth in Section 1221.2 inasmuch as the modified versions are equivalent in performance to the approved versions.

(2) The Department may also approve related accessories other than those manufactured by the manufacturer of the approved accessories when, in the judgment of the Department, such accessories are equivalent to the approved accessories.

(3) In cases of requests for approvals on the basis of equivalence, the manufacturer, or the person requesting the approval, shall provide the Department with such information, data and documents as the Department requires to reach a judgment.

(4) the manufacturer, or the person requesting the approval, shall additionally provide the Department with such instruments, related accessories, chemical reagents, full directions and any other materials needed for the Department to reach a judgment; and shall provide the Department with such technical consultation as is needed.

History: 1. Amendment filed 11-24-75; effective thirtieth day thereafter (Register 75, No. 48).

2. Editorial correction (Register 76, No. 24).

1221.43. Standards of Procedure. (a) Procedures for breath alcohol analysis shall meet the following standards:

(1) For each person tested, breath alcohol analysis shall include analysis of 2 separate breath samples which result in determinations of blood alcohol concentrations which do not differ from each other by more than 0.02 grams per 100 milliliters.

(2) The accuracy of instruments shall be determined.

(A) For an instrument designed for immediate analysis of breath samples collected by direct expiration by the subject into the instrument ~~Such~~ determination of accuracy shall consist, at a minimum, of periodic analysis of a reference samples as described in Section 1221.2 (a)(3) and which ~~is~~ are provided by a forensic alcohol laboratory.

1. Such analysis shall be performed by an operator as defined in Section 1221.4(a)(5), and the results shall be used by a forensic alcohol laboratory to determine if the instrument continues to meet the standard of accuracy set forth in Section ~~1221.2(a)(3)~~ the U.S. Department of Transportation's "Model Specifications for Evidential Breath Testing Devices".

~~(B)~~ For disposable components of an instrument designed for capture of samples for later analysis, such determination of accuracy shall consist of analysis of a reference sample, performed by a forensic alcohol laboratory, using representative disposable components randomly selected from each manufacturer's lot used, and the results shall be used by a forensic alcohol laboratory to determine if the instrument meets the standard of accuracy set forth in Section ~~1221.2(a)(3)~~.

1. For a nondisposable component, if any, which is used repetitively for sample capture in disposable components, such determination of accuracy shall consist, at a minimum, of periodic analysis of a reference sample as described in Section ~~1221.2 (a)(3)~~ and which is provided by a forensic alcohol laboratory.

2. Whereas capture of such a sample shall be performed by an operator as defined in Section ~~1221.4(a)(5)~~, the captured sample shall be analyzed by a forensic alcohol laboratory, and the results shall be used by a forensic alcohol laboratory to determine if the instrument continues to meet the standard of accuracy set forth in Section ~~1221.2(a)(3)~~.

~~(6)~~ (B) For the purposes of such determinations of accuracy, "periodic" means either a period of time not exceeding 10 days or following the testing of every 150 subjects, whichever comes sooner.

(3) Breath alcohol analysis shall be performed only with instruments for which the operators have received training, such training to include at minimum the following schedule of subjects:

- (A) Theory of operation;
- (B) Detailed procedure of operation;
- (C) Practical experience;
- (D) Precautionary checklist;
- (E) Written and/or practical examination.

~~(F) For sample capturing instruments, training may exclude the later analysis which is performed in a forensic alcohol laboratory.~~

~~(G) Persons who have been engaged in the use of an instrument for the six months prior to January 1, 1971, shall be considered to have been trained and examined in the procedures for that instrument.~~

(4) Training in the procedures of breath alcohol analysis shall be under the supervision of persons who qualify as forensic alcohol supervisors, forensic alcohol analysts or forensic alcohol analyst trainees in a licensed forensic alcohol laboratory.

(A) After approval as set forth in Section 1218, the forensic alcohol laboratory is responsible for the training and qualifying of its instructors.

(5) An operator shall be a forensic alcohol supervisor, forensic alcohol analyst, forensic alcohol analyst trainee or a person who has completed successfully the training described under Section 1221.4(a)(3) and who may be called upon to operate a breath testing instrument in the performance of his duties.

(6) Records shall be kept for each instrument to show the frequency of determination of accuracy and the identity of the person performing the determination of accuracy.

(A) Records shall be kept for each instrument at a licensed forensic alcohol laboratory showing compliance with this Section.

History: 1. Amendment filed 11-24-75; effective thirtieth day thereafter
(Register 75, No. 48).

1221.54. Expression of Analytical Results. Results of breath alcohol analysis shall be expressed as set forth in Section 1220.4.

ETHICS IN EVALUATION STATEMENTS

By: LOWELL W. BRADFORD

P.O. Box 1148, San Jose, CA 95108.

Every Criminalist should be concerned with wording, both oral and written, of statements of conclusions and evaluations of completed examinations.

As Vannevar Bush stated ^① in part:

"The hallmark of a profession is that its members minister to the people.

It is out of the concept of ministry – of the assuming of responsibility

for the vital affairs of others because of superior specialized knowledge..."

and again ^② in part:

"the typical client who buys professional services is not in a position to

judge their quality for himself. He must rely upon the reputation of the

individual professional practitioners and the standards of conduct main-

tained by the profession as a whole. Caveat Emptor does not apply."

This simple principle of being responsible is the single most important burden of any ethics concept. In each case that is completed by a Criminalist, this burden is present. A statement of examination results is the point at which the burden comes to a climax. Results are stated in reports, both oral and written, and are presented through witness services in judicial and administrative proceedings. A continuing review of reports and testimonial utterances from crime laboratory personnel shows that we have an acute need to upgrade statements of conclusions and evaluations.

Here are some examples from actual cases; the first, an excerpt from trial testimony:

Direct Examination

Q. Did you find anything in any of your typing work regarding the sun visor stain and the known blood of Mr. Blank that could eliminate Mr. Blank as being the donor of the stain?

A. No, I did not.

Q. From the sub typing of the two subgroups EAP and PGM, both of which were the same in the stain as in the defendant, what is the percentage of the human population that could have those sub types?

A. Approximately 20% of the population would have EAP type B in combination with PGM type one.

Cross Examination

Q. Is it true that some of these chemicals, like Scotch Guard, would tend to affect the ABO typing more than the enzymes?

A. Yes.

Q. You can't testify of course that that was Mr. Blank's blood.

A. Not specifically. I found a type that was consistent with Mr. Blank's blood.

Q. What were the results of blood group testing of the questioned stains versus the defendant's blood?

A. No results were obtained in the ABO system because of possible interference of Scotch Guard or other chemicals that could have inhibited the reaction. Both defendant's blood and the questioned stain were found to be EAP type B and PGM type one. No other tests were done.

Why did the witness answer Not specifically and then go on about consistency? This implies that there was an identification that was not specific. The answer should have been responsive to the question -- it is not possible to testify that it was Mr. Blank's blood! What caused the witness to respond in this way which seems to imply that consistency has identification value?

It is of value to all of us to review reports that we have written and transcripts of our witness work to see that finalized statements are not misleading and that they avoid any possibility of misinterpretation. Remember that the user of the information will employ it as a basis for decisions which may have serious consequences. CAVEAT EMPTOR must be prohibited.

Here are some more examples of need for upgrading taken from reports:

Hair Evidence

"Human hair gripped in the fingers of the victim of an assault is indistinguishable from head hair samples from the defendant."

Comment

This kind of a statement leaves the impression that an identification is involved. A discussion of the basis of this indistinguishability would have shown that there was neither identification nor eliminative value from the characteristics examined. A reexamination of the hairs by an independent hair microscopist showed that of the criteria examined, the characteristics of color and medulla were the only two that had any possibility of exclusion or identification potential. The hairs had such wide variations in these characteristics that neither identification nor exclusion of the suspect was possible. Yet, the wording that they were "macroscopically and microscopically similar" erroneously conveyed to the prosecutor the conclusion that the suspect was therefore connected to the incident by the hair evidence. An equally irresponsible but true statement could have been that the hairs are determined to be dissimilar, and this could be the result of comparing opposite ends of the range of variations. However, the correct report should have been that the examination was indeterminate because of the wide range of variations in both sets of hair and the commonness of this type of hair in the population.

Reports of findings of hair examinations are probably more abused than those concerning any other type of physical evidence because of the range of variations of two sample sets and the failure of the examiner to take this into account along with the frequency distribution in the particular locale.

Firearms Evidence

"The test fired bullets when compared with the fired bullet, which was removed from the victim, lack sufficient characteristics upon which to make a positive identification. However, in the examiner's opinion they were probably fired from the same gun."

Comment

How can the examiner emit such a contradictory statement? How is a "positive" iden-

tification different from any other identification, unless one thinks that there are "unpositive" identifications, which the report seems to indicate. There is no rational justification for a "probable" identification from examination in such a circumstance.

Document Case

"While it is not possible to conclusively identify the defendant as the author of the faces of the two checks, it is probable that he did author the faces and maker signatures".

Comment

If the examination was not determinate, the examiner could have told the submitter why. The examiner could have suggested additional "due course" exemplars as a possible route to a conclusive outcome. If the result is not determinate, the probable authorship statement is contradictory on a basis of examination.

These few samples of reported results demonstrate the type of unjustified and misleading statements that are being uttered. They have the ring of advocacy, a condition with which a criminalist should not be infected.

An equally serious situation occurs when results of examinations are rendered without comment on their meaning. Such irresponsible reporting avoids the very essence of criminalistics professionalism.^③ Failure to keep a written record of examination notes is another example of "irresponsibility". Both of these nonperformances implicitly communicate that the examiner refuses to be open to any reexamination of the technology used, the results obtained or the import of the findings.

There are ways to overcome these problems^④. They are as follows:

1. Keep detailed notes and data concerning the findings of all examinations.
2. Put all significant findings into the report.
3. Be sure that the report statements can be traced back to the notes.
4. Resolve all identification questions in terms of (a) identified, (b) excluded, (c) indeterminate.
5. Express indeterminate results so as to avoid unjustifiable weighting or leaning.

6. If any of the following language is used in reports or testimony, be sure to support it with a complete evaluation and explanation of the basis:

(a) indistinguishable, (b) identified as this source or one just like it, (c) can't be differentiated, (d) are the same, (e) are just like each other, (f) are probably from the same source, (g) in the opinion of this examiner are from the same source, and (h) in the opinion of this examiner are not from the same source.

If the practice of criminalistics could be reduced to one simple guideline, it would be this:

"AN EVALUATION FROM THE LABORATORY
AND CONSEQUENTLY AN OPINION FROM THE WITNESS BOX
IS ONLY AS GOOD AS THE FACTS UPON WHICH IT IS BASED"

References:

1. Bush, V., Chemical and Engineering News, Vol. 26, 1948, p. 152.
2. Ethical Standards and Professional Conduct, Vol. 297 of Annals of the American Academy of Political Science, Philadelphia, 1955, p. 1.
3. Bradford, L. W., Barriers to Quality Achievement in Crime Laboratory Operations, Journal of Forensic Sciences, JFSCA, Vol. 25, No. 4, Oct. 1980, pp. 902-907.
4. Bradford, L.W., et al., Analysis of Criminalistics Operations: The Crime Laboratory -- A Conceptual Model, prepared for the Mitre Corp. and Law Enforcement Assistance Administration, 18 Jun 1974, PRC Systems Sciences Co. (available from National Institute of Law Enforcement and Criminal Justice)

 CALIFORNIA ASSOCIATION OF CRIMINALISTS
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Office of:
 BY-LAWS COMMITTEE CHAIRMAN

March 11, 1985

In older versions of the CAC By Laws (for example, see J. For. Sci. of a few years ago) there were two sections of the By Laws which have been omitted from current versions of the By Laws. These two sections were contained Article I-Purposes.

For reference, these two sections read as follows:

- 12. When appropriate, to review and act upon any pending legislation which appears to be related to the field of criminalistics.
- 15. Establish a code of ethics for criminalists.

These two sections are of substantial significance to the purposes of the CAC and they should be part of our Purposes. Therefor, the following two amendments of the By Laws are proposed and will be voted on at the May seminar:

ARTICLE I -- PURPOSES

SECTION 14: When appropriate, to review and act upon any pending legislation which appears to be related to the field of criminalistics.

SECTION 15: Establish, maintain, and enforce a code of ethics for criminalists.

Note that Section 15 has been amended slightly from the version

previously used. This new version explicitly states that one of the purposes of the CAC is to establish and enforce a Code of Ethics for criminalists. This is the only mention in the By Laws of the establishment of a Code of Ethics, and gives the CAC the authority to establish the Code, but does not require the Code be a part of the By Laws.

PROPOSED REVISION OF SECTION V-F OF THE CAC CODE OF ETHICS

The CAC Board of Directors has voted to present the following proposed revision of the CAC Code of Ethics to the membership for vote at the May Seminar Business Meeting.

Section V-F of the Code of Ethics, as proposed for amendment, reads as follows (underlined portions represent the added text, no text has been deleted).

"It shall be ethical and proper for one criminalist to bring to the attention of the Association a violation of any of these ethical principles; indeed, it shall be mandatory where it appears that a serious infraction or repeated violations have been committed and where other appropriate corrective measures (if pursued) have failed."

The Board has considered Section V-F of the Code of Ethics and proposes the indicated amendment. Following is a summary of the Board's reasoning in suggesting this amendment.

The second clause of this section pertains to the obligations one member incurs when he or she becomes aware of actions of another member which may constitute a violation of the Code of Ethics.

The words "serious" and "repeated" indicate that judgement is called for on the part of the observer with regard to the magnitude of a possible violation. If it does not appear serious or has not occurred repeatedly, the observing member has discretion in deciding whether or not to bring the matter to the attention of the Association.

If the possible violation does appear serious or if it has occurred repeatedly, and where all other appropriate corrective measures (if pursued) have failed, then the observing member is under a firm obligation to bring the matter to the attention of the Association. Such corrective measures may include bringing the matter to the attention of the superiors of the apparent violator or to the attention of others.

Implicit in the Section is the obligation upon the observing member to act in a timely fashion when there is a requirement to bring the matter to the attention of the Association. This obligation remains regardless of any other actions which might be taken.

It is the intent of the CAC to encourage the use of constructive mechanisms to resolve problems in the conduct of its members. Where constructive mechanisms exist outside of the CAC Ethics Enforcement Procedure, members may employ such mechanisms. However, where other appropriate measures for correction have failed, there is a firm obligation to bring the matter to the attention of the Association.

PROPOSED REVISIONS OF THE ENFORCEMENT PROCEDURE OF THE
CAC CODE OF ETHICS

The proposed revisions fall into two groups. Sections IID-1 through IID-5, IIIA-1, IIIA-2b, and IIIA-3 all relate to nonsubstantive procedural changes which mostly address the order in which the Ethics Committee prepares information for distribution.

Sections IIIA-2a, IIIB-2, IIIB-5a, IIIB-5b, and IIIB-7 all relate to the concept of Executive Session for select ethics hearings combined with the proposed new sanction of private reproof.

The two groups of revisions will be voted on separately.

The Board of Directors has voted to submit these proposed revisions to the membership with a recommendation that all should be approved.

See March CAC Newsletter, pp34-42, for the exact wording of the proposed changes.

See also, in the same issue, proposed By-Laws changes scheduled to be considered at the Spring Seminar.



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ENFORCEMENT OF THE CODE OF ETHICS

II-D Report of Investigation:

1. The report need not be in any particular format, but shall contain the following in separate sections; 1) a summary of each purported ethical violation (with specific reference to applicable Code of Ethics sections) investigated, 2) facts in support of each allegation, 3) facts in contravention of each allegation, 4) a listing of the names of all persons contacted by the Ethics Committee (including addresses and telephone numbers), 5) a listing of and copies of supporting documents (if any) possessed by the Ethics Committee, 6) a listing and location of other documents (if any) referred to by the Committee during its investigation, and 7) a chronology of events such as interviews, continuances (with the reason(s) why), the receipt and distribution of documents, etc.
2. The Report of Investigation shall be comprehensive and shall contain all relevant facts and topics discovered by the Ethics Committee, notwithstanding the extent to which, if at all, such facts or topics were addressed in the allegation.
3. The Report of Investigation shall contain a recommendation(s) to the Board regarding whether or not a basis for consideration of Ethics violation exists. In addition, the Report shall include a recommended sanction in instances where a basis for consideration does exist.

- II-D 4. *Statements from persons interviewed by the Ethics Committee should be in the form of "Declarations" whenever possible. Declarations add importance to the statements made and help pinpoint issues. In addition, there is no personal liability for a person who in good faith testifies under the penalty of perjury to something he/she believes is true. Further questions to Declaration authors, by the Board or Accused, should also be answered through the use of Declarations.*
5. *The Report of Investigation shall be sent to the President within the time limits heretofore specified and shall be signed by the Chairman. At the same time, a copy of the Report shall be sent to the Accused (by certified mail-return receipt requested). Copies of the Report shall be sent by the President to all members of the Board of Directors.*



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ENFORCEMENT OF THE CODE OF ETHICS

III-A 1. Within the first 30 day period - following receipt of the Report of Investigation, questions may be directed by Board members, through the President, to the Chairman of the Ethics Committee. Written responses to such questions shall appear as addenda to the Report of Investigation. A copy of this addenda will be sent by the Ethics Committee Chairman to the accused and to each Board Member at the closure of the 30 day period. Within 90 days following receipt of the Report of Investigation, the President shall convene the Board in Executive session (closed to non Board members except the Ethics Committee) in order to consider the Report and any addenda. For the purposes of this paragraph, the President may "convene" the Board by poll or in such manner as he deems appropriate.



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ENFORCEMENT OF THE CODE OF ETHICS

Board Consideration of Report of Investigation

III-A 2. After consideration of the Report, the Board in its sole discretion by a vote of its membership, shall determine the action to be taken.

a. If the Board, by a two-thirds vote, determines that a basis for consideration of ethics violation exists, the President shall issue (by certified mail - return receipt requested) a Notice to that effect to the accused giving the accused an opportunity to express a preference of having the matter decided by the Board, in Executive Session, or by the Board at a hearing described herein in Section III-B 1 through 7. This Notice shall include a copy of Paragraphs III-A 3 and III-B of this Article and any addenda resulting from the Boards consideration of the Ethics Committee Report and shall itemize the acts or omissions for which the accused is to be held to account. The accused will have 15 days to make a selection. The selection of having the Hearing held in Executive Session will be granted only with the concurrence of the Board. In the event that the accused does not respond, the Board will determine how the matter will be decided.

Continued

Board Consideration of Report of Investigation
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III-A 2. Continued

The President shall issue a Notice of Ethics Hearing to the Accused (by certified mail - return receipt requested) and, if appropriate, to the membership. This Notice shall specify only the time, date and place of the Hearing. The date of the Ethics Hearing shall not be sooner than 60 days nor later than 120 days from the date of the Notice. However, the President may grant such earlier or later date as he deems appropriate upon written request from the Accused (provided that no later date shall be greater than 180 days from the date of the Notice) or such later date as he deems appropriate upon written request from the Chairman (provided that no later date shall be greater than 180 days from the date of the Notice).



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III A 2-b. If a two-thirds vote is not obtained, the Board thus determines that a basis for consideration of ethics violation does not exist. It shall then issue a "Notice of Dismissal of the Allegation" signed by the President, to the Accused and further consideration of the allegations shall terminate forthwith. There shall be no right of appeal or of reconsideration by any person whomsoever from this decision.

3. At any time at least 14 days prior to the date of the hearing, upon written request to the Chairman of the Ethics Committee, the Accused shall be supplied with copies of the names (and last known address and telephone number) of all persons contacted by the Ethics Committee during the investigation, copies of all documents (including affidavits or declarations) obtained by the Ethics Committee during the investigation and a specification of the last known location of all other documents or things examined by the Ethics Committee during its investigation that have not already been provided as attachments to the Report of Investigation. Such written request shall be honored by the Chairman within 10 days from the receipt thereof. Requests for discovery shall be honored, in a spirit of openness and fairness, whenever practical to do so.



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ENFORCEMENT OF THE CODE OF ETHICS

III B. Ethics Hearing

1. *(No change)*
2. *With the exception of Hearings held in Executive Session members of the CAC may attend except as otherwise stated herein. Such attendance shall be that of an observer, not a participant.*



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ENFORCEMENT OF THE CODE OF ETHICS

III-B 5. Determination and Notification of Sanctions:

- a. The Board will determine, based on the ethical violation proven and other evidence as presented pursuant to paragraph III,B,4,C which of the following sanctions shall be imposed:*
 - (1) Private reproof (only applicable to Hearings held in Executive Session)*
 - (2) Letter of Reprimand*
 - (3) Suspension of the rights and privileges of Membership in the Association for a period of time determined by the Board.*
 - (4) Expulsion of the Member from the Association.*
- b. The sanction shall be determined by two-thirds of the entire membership of the Board. If two-thirds of the Board do not approve a specific sanction then the sanction shall be one of the following:*
 - (1) Private reproof (in matters heard in Executive Session) or*
 - (2) Letter of Reprimand (in matters heard in a Hearing open to the members)*



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ENFORCEMENT OF THE CODE OF ETHICS

III-B 7. Following the disposition of the case by the Board (at either an Executive Session or a Hearing) or the membership (in the event of an appeal) a summary of the facts and sanctions, if any, in each case will be prepared by the Board and distributed to the membership. Specific names, places and like identifying information will not be included, except at the written request of the Accused, in the summary of a case where the Board either determines 1) that an ethics violations has not occurred, or 2) where a violation has occurred and the resulting sanction was private reproof, but shall be so included where the Board or membership had determined that an ethics violation has occurred and the resulting sanction is something other than private reproof.