

CITY OF HOUSTON

Houston Police Department

Bill White, Mayor

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September 8, 2009

Harold L. Hurtt
Chief of Police



The Honorable Patrick Leahy
Committee on the Judiciary
United States Senate
433 Russell Senate Office Building
Washington, DC 20510

Dear Senator Leahy:

The purpose of this correspondence is to provide you with a historical account of the Houston Police Department Crime Lab, reforms implemented and potential solutions for addressing the challenges in forensics.

Historical Perspective

In November 2002 investigative news reports criticized forensic analysis performed by the DNA Section of the Houston Police Department Crime Lab. As a result of the news reports, management requested an independent audit of the DNA section by the Texas Department of Public Safety. The audit revealed deficiencies that resulted in the suspension of DNA testing.

The Internal Affairs Division was assigned to investigate the employees of the Crime Lab for criminal and administrative violations. The investigations were reviewed by the District Attorney's Office for criminal misconduct. Two Grand Juries reviewed the evidence and no indictments were returned. Thirty investigations were completed resulting in written reprimands up to terminations. Additionally, An Assistant Chief of Police, the Crime Lab Director, and a DNA supervisor resigned or retired in lieu of termination.

In early 2003, three outside DNA labs were employed to conduct DNA re-testing of cases performed by the HPD Crime Lab employees. Additionally, in 2003 the National Forensic Science Technology Center (NFSTC) was hired to assist in the evaluation of various aspects of the Crime Lab's operations including competency testing of employees and temporary management of the Lab. In October 2003 a permanent Crime Lab Director Irma Rios was hired to manage the Crime Lab operation and lead the Crime Lab through the successful completion of



the accreditation process. Effective September 2005 the State of Texas mandated that Crime Labs accredited.

We discovered 280 boxes of crime lab evidence that was improperly labeled and stored. No evidence, to date, has been found related to any active investigation but evidence was discovered that related to 29 capital defendants that created concern.

The evidence has been catalogued and tagged, cases supplemented, and returned to the original investigative units for final review and disposition. For an additional level of oversight the District Attorney's Office and the Texas Rangers were involved during this process.

In September 2004, I sought an independent review of the Crime Lab and Property Room. A Stakeholder committee was formed to select and oversee the progress of an independent investigator. The committee included various community leaders, civil rights advocates, defense attorneys, forensic scientists, and academics. In March 2005 we entered into a contractual agreement with Mr. Bromwich to perform the independent investigation. The entire Bromwich Report can be found at <http://www.hpdlabinvestigation.org>.

Three main elements were addressed during the investigation and included the following:

- Historical operations of the Crime Lab and Property Room. This included a review of over 3500 cases from individual sections within the Crime Lab prior to accreditation
- Serology incarceration cases. These cases included testing performed during the period of 1980 through 1992.
- Review of current operations. A comprehensive assessment of the current operations of the Crime Lab and Property Room with the purpose of making recommendations to improve the operation.

For transparency quarterly reports were released to the public and posted on a website dedicated to the Independent Investigation. A Final Report was issued June 2007 and a Summary of Recommendations was issued August 2007.

Independent Investigator's Final Report

The final report consisted of a review of approximately 3500 cases and 100 interviews at a cost of \$5.3 million. It was important that a full and frank public disclosure about the Crime Lab's past be made in order to build a foundation of trust and credibility with the public. The investigation uncovered that for a 15-year period preceding the DNA/Serology section's closure in December 2002, the following historical problems existed:

- **Lack of Support and Resources for the Crime Lab.** Inadequate resources and attention paid to the Crime Lab by command staff.
- **Ineffective Management within the Crime Lab.** There was a lack of strong and effective leadership and inadequate management of the strong and difficult personalities within the Crime Lab.
- **Lack of adequate Quality Control and Quality Assurance.** Technical reviews were lacking and many of the standard operating procedures, when available, were cobbled

together. There were gaps and failures in quality control and technical reviews of analysts' work, problems with contamination and interpretation of test results in the DNA testing and insufficient and misleading reporting of analysts' results.

Reforms Implemented

Thoroughly understanding the issues that led to the Crime Lab crisis set the stage for local, state and national reforms. The state legislature mandated Accreditation statewide. The deficiencies noted in the independent audits began an urgent effort to overhaul our Crime Lab.

The Crime Lab's testing procedures, practices, policies, equipment, facility and personnel were overhauled. In 2005, the Crime Lab received national accreditation from the American Society of Crime Lab Directors-Laboratory Accreditation Board (ASCLD-LAB) in Controlled Substances, Firearms, Toxicology, Questioned Documents and Biology. In 2006, the Crime Lab received its accreditation in DNA and Trace analysis. The Crime Lab continues to undergo external audits and reviews by outside consultants. New laboratory equipment and technology have been purchased and robots are being evaluated for DNA testing.

Staffing criteria has been upgraded, with an emphasis on experience, certifications and educational credentials. Managers have been hired with experience in laboratory management and forensic science. We have imposed rigorous training requirements, including yearly ethics training. Some of our current staff members have been elected to local and national forensic boards and committees, and some have published in forensic journals.

A comprehensive Quality Assurance Program has been implemented to review operating procedures, competency of employees and provide a "checks and balance" measure in the form of testimony monitoring, proficiency testing, and re-testing of evidence.

The Crime Lab continues to cooperate fully with the Innocence Project by making evidence available for review and testing.

Significant Events

The HPD Crime Lab has come under intense scrutiny following the re-examination of several high-profile cases resulting in the exoneration of individuals.

Factors that contributed to the problems included:

1. Lack of being able to conduct DNA tests because they were not available at the time;
2. Mistakes made by personnel due to lack of training, allocations of resources, quality assurance, and supervisory oversight;
3. An eyewitness misidentifies a suspect. When evidence is available and processed properly, it should eliminate misidentification by eyewitnesses.

Property Room / Operational Efficiency

In 2009 a new 53,000 sq. ft. property room was built at the cost of \$73 million. The new facility has state of the art equipment such as bar-coding, moveable shelving, and refrigerated space for storage of biological evidence.

Backlogs and Case Assessment & Interpretation Strategies

Adding more staff is not necessarily the only solution to reducing backlogs and increasing the quality of work performed. A strong long term agenda must be implemented using advancing technologies and case assessment strategies. These strategies begin from the time an officer is called to a scene and include proper collection, preservation, and processing of evidence based.

Many police agencies are submitting significant amounts of evidence to Crime Labs that result in little or no significance to the case resulting in backlogs. A strategy of case assessment should be used to tackle these backlogs. Best evidence and best test should be agreed upon by officers, attorneys, and crime lab staff prior to the processing of evidence. This process enables decisions to be made that will deliver a value for the money and will meet the needs of the end users. This process is used in the United Kingdom and is one that should be explored more diligently in the United States. We can choose to do our work the same way and get the same results or change the way we do business. Advancing technologies such as Laboratory Information Management Systems using bar coding, robotics, automation, and databases are key to streamlining operations and improving the quality of work.

How did we get here?

The question that I hear often is “how did we get here?”_Initially, crime labs were run by trained police officers who may have known policing well, but certainly lacked knowledge in advancing technologies surrounding the capture, storage and identification of DNA evidence. The limited scientific knowledge of prosecutors, defense attorneys and judges further compounded the problem of not asking the right questions and not understanding limitations lab results and conclusions drawn by the scientists. In instances where there was scientific fraud or sloppy work, they did not have the knowledge to identify it.

The scientific aspects of ever evolving technology required that trained scientists be brought in to run our labs, scientists with no law enforcement or legal training. A knowledge gap between law enforcement, attorneys, judges and scientists resulted in a significant vulnerability. Crime Labs have been understaffed, underfunded, and worked performed in facilities that have been retrofitted into Crime Labs with inefficient evidence processing layouts.

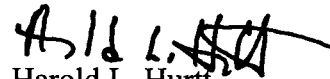
Professionals involved in the criminal justice system, including the end users, need training to ensure the optimal use of advancing technologies in forensic testing. High standards are necessary to protect both public safety and individual rights. That’s why accreditation is so important.

Accreditation requires that labs adhere to industry standards to ensure the quality and integrity of data and the competency of the lab and, more importantly, external audit processes help us identify vulnerabilities and create an opportunity for improvement. We have realized that well-defined and consistent guidelines and standards combined with checks and balances are a must in today's forensic labs.

Conclusion

The Houston Police Department Crime Lab has undergone extensive review from numerous sources and will continue to do so into the future. We have opened ourselves up to everyone and have withheld no information concerning any aspect of our Lab or its operation. Restoring the public's faith in the integrity of the crime lab and the criminal justice system as a whole is a challenge that we are fully committed to accomplishing.

Sincerely,

A handwritten signature in black ink, appearing to read "Harold L. Hurt", with a stylized flourish extending to the right.

Harold L. Hurt
Chief of Police

hlh:hlh

Attachment

Reference material

STAKEHOLDER COMMITTEE MEMBERS

Adrian Garcia

- City Council Member
- Chair of the Public Safety Committee

Fran Gentry

- President of the NAACP

Sylvia Gonzalez

- Director of LULAC

Rusty Hardin

- Local Attorney- Rusty Hardin and Assoc.
- Former Prosecutor for Harris County

Dr. Richard Li

- Asst. Professor- Sam Houston State University Forensic Science Program

Dr. Ashraf Mozayani

- Laboratory Director, Harris County Medical Examiner's Office
- Diplomat Certification- American Board of Forensic Toxicology

Annise Parker

- City Controller, Houston, Texas

Frank Parish

- Attorney, Justice For All- Parents of Murdered Children

Dr. Wayne Riley

- Baylor College of Medicine: VP and Vice Dean for Health Affairs and Government Relations
- Ben Taub Hospital Asst. Chief of Medicine

Dr. Ben Roa

- Baylor College of Medicine: Director DNA Diagnostic Laboratory
- Asst. Professor, Molecular and Human Genetics

Kent W. “Rocky” Robinson

- Local Attorney- Partner: Andrews Kurth
- President of the Houston Bar Association

Dr. Richard Ward

- Dean and Director, Sam Houston State University College of Criminal Justice

Dr. Don Woods

- Dean, Texas Southern University School of Public Affairs