

Crime Laboratory Commission Meeting

Wednesday April 2, 2014

OFFICE OF THE ATTORNEY GENERAL

3'rd FLOOR CONFERENCE ROOM

150 SOUTH MAIN STREET

PROVIDENCE, RHODE ISLAND 02903

2:00 PM

In attendance were Gerald J. Coyne, Deputy Attorney General, Rhode Island Department of Attorney General; Director Dennis Hilliard, Rhode Island State Crime Laboratory of Pharmacy; Chief Joseph Tavares RI Police Chiefs Association; Nancy Haley; Robin Smith RI DOH; Edward Downing RISCL; Jane Northrup RISCL.

I. INTRODUCTION

A. Welcome to Commission Members

Meeting was called to order by Gerald Coyne @ 2:00 PM, and was then turned over to Director Hilliard. Director Hilliard then explained that he brought with him Edward Downing and Jane Northrup from the RISCL. Mr. Downing will address the Commission on an issue which is on the agenda.

B. Approve Minutes of January 8, 2014

Mr. Coyne asked to approve the minutes of the January 8, 2014 meeting. A motion was made to approve the minutes by Nancy Haley and Chief Tavares seconded the motion. Minutes were then

approved as all were in favor.

II. FUNDING

A. Budget FY 2014

a. State Appropriation

Packets were distributed at the start of the meeting which contain information which will be discussed at this meeting. In the second part of the packet the budget is found. There is a spread sheet which is the FY2014 budget for the Crime Laboratory. Funds available for the year are \$1,085,888.00 this is down from our last meeting. Apparently the State made some changes in allocation and The Laboratory lost approximately \$3,781.00 from the original amount. The FY2014 funds include the rollover funds of \$62,342 from FY2013. Within the budget listed are expenses of personnel, office expense, etc. There are a couple of large items related to equipment purchases which are discussed below. A major piece of equipment which was purchased ,with basically the Roll over funds ,is a new RUVIS system for Latent prints. This was purchased for \$31,500.00. The system should be arriving sometime within the next week. The balance of the Rollover funds will be used to provide funding to the College of Pharmacy for the sharing of an IT person, who will provide a viable backup system solution for case files and digital images associated with these files.

b. Instrumentation

i. GC/MS/RUVIS

A new GC/MS was purchased and the cost of this was \$100,000.00 and an extended four year warranty was also purchased at \$24,000.00. Total cost was \$124,000.00. There were several bids and the bid was awarded to Agilent Technologies. The instrument was installed in early March and Staff was trained. The instrument that was replaced has been given to the URI Chemistry Department for their use in research and training. This instrument is used exclusively in the Laboratory to analyze fire debris for ignitable liquids. It has added the ability to analyze pyrolysis products related to fire debris and trace examinations. The RUVIS System has been ordered and is expected to be placed into service by Mid April.

ii. FTIR

This instrument is eleven years old and is approaching the end of its useful life. It was planned to replace the FTIR in the Trace Section in 2014, but this purchase was put off to 2015 at the request of the State. In the FY2015 Budget a request will be put in for \$140,000.00. The State actually has already put \$125,000.00 in the Governor's budget, which means there will be a shortfall of about \$15,000.00. This was discussed with The URI budget department and State Budget Department and it seems that this will be handled internally instead of Director Hilliard going before a meeting with the

House and Senate Finance Committee.

iii. AFIS Terminal

It had previously reported to the Commission that there was issue with the maintenance contract on the second AFIS terminal which the Laboratory purchased in November, 2012. The terminal only came with a one year maintenance contract. In December, 2013, the Laboratory was contacted to renew the contract at a cost of \$3,400.00 per year if it was renewed for a five year term. Originally when the terminal was purchased it was expected that it would be added to the state contract for maintenance of all the terminals in the state system which is provided by the Rhode Island Attorney General's Office. Upon inquiry to the AG's office in December and through Deputy Attorney General Gerald Coyne it was determined at the Commission's January meeting that the Laboratory would be financially responsible for the cost of any future maintenance contracts on this terminal. Chris Cotta from the AG's office contacted Cogent to determine if the annual cost could be reduced and a new quote was received in early March at a rate of \$2,700.00 per year with a five year commitment. Mr. Cotta also stated that the State would not cover the Service Contract and that it would be the responsibility of the Laboratory to pay for this. The State is looking at the possibility of using the REMI group instead of Cogent. The Laboratory is working with URI purchasing department to determine if this is a sole source contract (i.e. can the computer part be maintained by REMI) and if the Laboratory can enter into a five-year commitment. URI Legal Department is reviewing this to see if a commitment should be made

for a five year service contract. The suggestion is to use part of the rollover funds along with the release funds for the Laboratory's annual allocation with the Byrne grant to pay this fee in a single transaction. Director Hilliard then stated that he had a question for the AG's office to see if the AG's office is contemplating upgrading the AFIS System and planning on buying new terminals should a five year contract even be entered into?

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Mr. Coyne stated that this was a good point, and unfortunately the question could not be answered right now. He also stated that from what he has been told the Attorney General's office is looking really hard as Connecticut is upgrading theirs, so if this is the case it would not make any sense to do a five year commitment. Director Hilliard then suggested that he and Mr. Coyne further discuss this issue. Director Hilliard then stated that he would assume that it would cost \$2700.00 this year and then a 3% increase next year, which would be acceptable. The cost would be covered by the rollover funds, as this was not budgeted into the accounts.

Any questions on FY 2014? The spreadsheets basically list what has been budgeted and what has been spent to date and what balances are.

B. Budget FY 2015 and FY 2016

The budget proposals which The Commission was provided back

in September of 2013 are basically the same with no changes being made. The only addition which was made was an addition request for funding to renovate a building in West Kingston for The Laboratory to use, and moving expenses. This was approximately \$779,000.00. When URI proposed this to The Governor's office they nixed it as it should have gone through Capital Improvement Projects. An alternate proposal will be discussed later on during this meeting. The FY2015 budget has been proposed to The Governor. Director Hilliard stated that he understood that the House and Senate Finance Committee have had their hearings on the higher education budget which is where the Laboratory falls. Director Hilliard stated that he attended the House Finance subcommittee meeting which was held on March 27, 2014. At that meeting Director Hilliard had a conversation with the URI Budget Officer and with the State Staff analyst on the budget regarding the funding shortfall for the FTIR and they stated that they would address the issue. Director Hilliard stated that he was not asked to testify, and that he reintroduced himself to Representative Robert Jacquard who is the newly appointed Chair of the House Finance Subcommittee on Higher Education. Any questions – none.

C. OTHER SOURCES OF FUNDING

a. Coverdell FY 2013:

This grant was awarded in the amount of \$13,092.00. This money is being used for travel for the purposes of educational training and/or conferences in the field. To date approximately \$4,000.00 leaving a balance of approximately \$9,000.00; this needs to be spent

by September 30, 2014.

. **b. Byrne FY2013**

This grant was awarded in the amount of \$20,000.00 on the city side. These funds have been used to purchase several pieces of equipment – a Bore Scope for the firearms section; Photo Light Box for Latent Prints and Firearms; Bench Top Magnifiers with Light (2) for Latent Prints. The Laboratory anticipates purchasing some computer software which would be a mini-AFIS so that personnel would be able to actually upload their own prints and do comparisons that way. Right now two vendors have been contacted. Director Hilliard asked Edward Downing asked what the status was and he stated the software was not available for any demonstrations at this time from one vendor. As the money does not have to be spent until September 30, 2013, there are still a few months left.

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c. Other Sources of Funding

Still waiting for word on any potential “Google” funds from the Department of AG and East Providence Police Department. The RI Department of Safety Grant Administration Office has submitted a request for the FY2014 Coverdell grant program. The Laboratory did not submit a competitive application this year as we have been denied in the past, but the RI Department of Health Forensic Science Laboratory did. The RISP also did not apply for competitive funds.

The Laboratory received a donation of \$5,000.00 from the Rhode Island Criminalist Association which is used in our training. Plans are to put on a blood spatter school and also use it for general evidence education for law enforcement training in collection and preservation of evidence for lab submissions in conjunction with state accreditation of police departments to try to get their evidence room maintenance in place. Jane Northrup has been working on this with North Kingstown Police Department to get their evidence room together and get the paper work in order for accreditation. Other training includes fire scene photography and training for AG staff.

III: LABORATORY STATUS

A. Laboratory Progress Report

The packets include the quarterly report for this year. The quarter ended on March 31, 2014. The staff continues to present lectures, workshop, and laboratory tours and to take advance of a variety of training opportunities mostly on the web. There are 33 police officers, AG Staff and fire personnel registered for the Criminal Investigation Course which began on September 6, 2013 and which will conclude on April 11, 2014. Karen Vallaro is scheduled to receive training in NIBIN Entries at the Connecticut State Laboratory this month, as they can provide her training instead of spending a week at the BATFE Laboratory in Maryland. This allows approximately a savings of \$1500.00.

a. January 1-March 31, 2104

Approximately 146 cases were received and 14 cases were

resubmitted; approximately 779 exhibits were taken in; 240 cases were closed; and 220 reports were issued. A review of backlogged cases resulted in closing five cases this quarter on a "Termination of Service" request. These cases were mostly gunshot residue cases in which the analysis was no longer required because the case had been adjudicated. Gunshot residue cases can sit forever in the Laboratory because it is element analysis and the cost is approximately \$1,000-1,500.00 a case to process. Therefore unless we receive a letter from the Attorney General's Office stating that it is needed it is not processed. A review was performed by Trace and the Police Departments were contacted leading to "Termination of Service" on five cases. There was also an audit performed on all Open cases by one of our Firearm Examiners and he found that there were approximately 20 cases that should have closed in previous years and were not closed so that added to the number of cases closed this quarter. Comparing this years' quarter to last years' quarter submissions are down 8% in terms of submission. The Laboratory received 174 cases last year and 875 exhibits. Backlogs are basically the same as last quarter and a little higher than the same quarter last year. Firearms backlog is 455 cases; latent prints 56; trace 21; NIBIN 503.

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Latent prints, NIBIN, and trace are all down from the last quarter.

There has been a decrease in cases coming from Cranston, Pawtucket, and Warwick during this quarter. Providence submitted 49 cases last year same quarter and 45 this year.

a. Security/Records Protocol

At the last meeting the issue of dissemination of case information was raised - people who are entitled and people who are not entitled. The issue of sending information to Attorney General's office verses sending to The Public Defender's office. The issue was resolved internally with the help of Robin Smith from DOH. Robin sent a copy of DOH's policy and the policy of RISCL was updated to state that the Criminal Division of the Attorney General's Office is considered a law enforcement and then anyone who is not considered privileged would have to fill out a form. So if the Public Defender's office wanted information a form would be sent which would be filled out and then information would be supplied.

b. Employee Badges

All staff members of the State Crime Laboratory now have been provided with new badges and wallets. Previous credentials provided and signed by the Commission have been modified to fit the new wallets. One credential needed to be updated with examiner's new title – Karen Vallaro from Technician to Criminalist II. The signature portion of the credential was retained. When a staff member is no longer employed by the Laboratory their badge and wallet will be returned and their paper credentials will be shredded. If appropriate the badge and wallet will be reused.

c. AFIS Connectivity/Searches

As mentioned at previous meetings of the Commission there is an ongoing issue of obtaining information from the current AFIS system in light of the FBI's upgrade of their database under the Next Generation identification software implantation. Edward Dowling is here at the meeting to address the current situation with the Commission with the expressed intent of having his concerns being raised by the Attorney General and the Commissioner of Public Safety directly to the FBI Administration for resolution. The problem needs to be settled from the top down. Mr. Dowling has been trying for months to resolve this issue in a bottom up manner, and has had a lot of non-responses. He is here to explain the problem and what it means in terms of missing some identification. Mr. Dowling then proceeded to state that since May of 2013, when the FBI upgraded their AFIS system, the interface that the Laboratory has with Cogent does not work with the new system properly. He then proceeded to show the Commission examples of latent impressions with the type of images that he receives from the FBI, which is nothing. No image is generated but there is a list of similarities which are worth looking at. The second problem is since they installed the new system it also includes what is called a "flat impression" – four fingers placed at one time - the example he showed the Commission states to look at the number 7 finger which is the left index finger but the image of the left index finger is next to useless, as the image is not being generated. As a result of this problem potential identifications are being missed as there is no image to look at. It does make a

difference when trying to compare with the communities which border Massachusetts not as big

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a problem in the Connecticut areas going down to Westerly. Mr. Coyne then asked Mr. Dowling if anyone had been able to give any advice to him as how to resolve the problem. He then stated that he had been told that it is a Cogent problem and that Cogent needs to do an upgrade. When talking to Cogent they say there is nothing they can do as they are using an outdated operating system- Windows XP. Apparently the current software that is being used for the Cogent System is about two generations behind. Mr. Dowling then stated that he is hoping that Cogent will upgrade the system to provide better interface. Right now in Mr. Dowling's opinion the State of Rhode Island is being shortchanged by the Federal Government. Mr. Dowling then stated that identifications are being missed. If someone has a serious offense and the Police Department would like a particular individual who they know has a record in the present system right now there is no way to bring up the FBI fingerprint file electronically. A request can be made to them by mailing it in, but they don't even want to provide that service now as they want everything done electronically, and we do not have the means to do this. Another part of the problem is that if there is an individual with a serious offense and we check statewide and the FBI with no hit the

latent print should be then entered into the unsolved database, and this cannot be performed. Right now there is law enforcement backlog with identifications as we cannot provide this service to clients. Mr. Coyne then stated that with State Police not present at this meeting, we cannot address this problem, and he did not want to wait until the next meeting. Mr. Coyne stated that he will check with personnel at the AG's office to see what the status is of Cogent and the upgrades. He also stated that this will be worked on between now and the next meeting. Mr. Dowling then stated that the problem is in the connectivity not the software. The software will be provided by the FBI with no charge. Mr. Coyne stated that this is the first time he hearing about this being a statewide problem, and that he definitely will follow-up on it.

B. ISO/IEC Accreditation

The Laboratory was scheduled for accreditation sometime in April or May, but for some reason they had contacted the Laboratory in early March, 2014. Jane, who is the Quality Assurance Officer, put together all the information that they needed, and sent it on. On March 13, 2014, the Laboratory was informed by Terry Mills Accreditation Manager for ANSI-ASQ National Accreditation Board/FQS that the Laboratory had successfully completed the requirements for this year's FQS desk audit for the ISO/IEC accreditation. Next scheduled onsite audit will be April, 2015. The cost for the onsite should be approximately \$8,000.00. Mr. Coyne then congratulated Director Hilliard on the accreditation.

C. Space Allocation

The University initially had talked about moving the Laboratory to a facility in West Kingston with an estimated cost of approximately \$779,000.00 to refurbish the building and the move. The Governor would not put this in the budget. Director Hilliard was asked to submit a proposal to Capital Improvement Projects by URI Planning Board. This is included in the packet. The information was then provided to the Planning Board and the Planning Board said that they would plan on a 9,000 square foot space addition to that building, without moving anyone out, for the Crime Laboratory and estimated cost would be approximately \$4, 9000,000.00. The CIP proposal is for FY2017 and would be completed in 2021. This seems to be the new plan by URI to try to get capital improvement funds to build a new Crime Laboratory.

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IV. NEW BUSINESS

A. Federal Initiatives on Forensic Science

The National Commission on Forensic Science has been selected and met for the first time February 3, 4, 2014, in Washington, DC. Director Hilliard stated that he had applied for a position on this Commission, but was not chosen. Included in the packet is a list of Commission members, where they come from, what their academic background is. There is 30+ members on this Commission, and they come from a variety backgrounds, and very few practioners. There are some Crime Laboratory Directors, but most are either academics or lawyers, a few law enforcement. Director Hilliard spoke at the

meeting and audio recordings are available online through ASCLD. The Commission have a great deal of work to do. They will meet again in May and future meetings are hoped to be live streamed on the internet.

Legislation concerning forensic science:

Senator Jay Rockefeller (D-WV) introduced his legislation to the Senate on February 12, 2014. Director Hilliard stated that as far as he can tell it has been given no notice by the relevant forensic science organizations. A draft with changes has been released on March 7, 2014, and it is expected to be reintroduced shortly. The bill is S.2022: Forensic Science and Standards Act of 2014.

Senator Patrick Leahy (D-VT) has drafted a new version of the legislation that he first introduced in 2011. It will be cosponsored by Senator John Cornyn (R-TX). What is interesting about the Leahy legislation is that it states once it is enacted after so many days that any monies designated for the National Commission will be transferred to the new Forensic Science board and office, basically cutting out the National Commission on Forensic Sciences.

Director Hilliard stated that if the Commission members read the bill and have any questions, to please let him know as he will be attending a Crime Laboratory Directors meeting in May, 2014. They are behind the Leahy legislation.

B. Other Business

Herbert Leon MacDonnell Files

Director Hilliard has been in contact with Dr. Herbert Leon MacDonnell who has offered his forensic files to the University of Rhode Island. Director Hilliard contacted the Special Collections section of the University Library to determine if they could be accepted, and was told that he could accept some files but that there had to be some funding associated with it to categorize and maintain the files . Dr. MacDonnell had already set up a URI Foundation account in 2004, for Dr. Harrison who was his mentor at URI when he received his Masters. Dr. MacDonnell will only send a select portion of his files which he describes “the cream of the crop”. He will send his other files to other universities and law schools. So far eight file boxes have been received at the Laboratory. The URI Library already had two boxes of files. Once a new memorandum on the Foundation funds has been signed, Dr. MacDonnell will send additional files.

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Director Hilliard asked if there was any other business to discuss. Mr. Coyne stated that there definitely needed to be follow-up before the next meeting on the cogent issue.

As there was no further business to discuss Deputy Attorney General Gerald Coyle made a motion to adjourn with the members in favor; the meeting was adjourned at 2:50 PM.

Minutes taken and transcribed by:

Monica Nason, Department of Attorney General