



# California Association of Criminalists

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## Position Statement on NIST Guidance Groups Structure, Composition, and Administration

November 12, 2013

National Institute of Standards and Technology  
c/o Susan Ballou  
100 Bureau Drive  
Mailstop 8102  
Gaithersburg, MD 20899

Dear Ms. Ballou:

Thank you for this opportunity to comment on, and answer the questions your agency posed about, the structure, impact, representation, and scope of the establishment of discipline-specific Guidance Groups.

The California Association of Criminalists (CAC), established in 1953, was the first regional Forensic Science Organization in the United States of America. The CAC was founded to foster an exchange of ideas and information, to establish friendship and cooperation, and to encourage a high level of competence and ethics. The CAC membership is composed of government and privately employed criminalists who are involved in the scientific analysis of physical evidence. The ideology expressed by the sixteen founding members continues today. The CAC, with over 800 members (in California and all over the country), has been continually looked-to for guidance at the national level in areas of certification, ethics, and development of standards.

Therefore, we appreciate that the opinions of the forensic science community are being solicited by your organization prior to any formal decisions being made about the structure, impact, representation, and scope of these Guidance Groups. In general, the members of the CAC support wholeheartedly the concept as stated in "Background" portion of the "Supplementary Information" section of the Federal Register Notice of Inquiry:

*"The proposed mission of the Guidance Groups to support the development and propagation of forensic science consensus documentary standards, monitor research and measurement standards gaps in each forensic discipline, and verify that a sufficient scientific basis exists for each discipline."*

The more specific opinions of the CAC and its answers to the questions posed in the Notice of Inquiry follow and are categorized according to the four areas listed under the "Supplementary Information" section.

### **Representation in the Guidance Groups**

*"What does balanced representation mean and how can it be achieved?"*

As was stated in the 2009 National Academy of Sciences report ("Strengthening Forensic Science in the United States: A Path Forward"), the vast majority of forensic science casework is performed by laboratories

at the State and local levels. Therefore, we feel strongly that the composition of the Guidance Groups should reflect that distribution and, therefore, be represented by a majority of practicing, casework-qualified forensic scientists working at the State and local levels. However, “balanced representation” would be more accurately achieved if two-thirds of the group members are employed by State and local laboratories.

*“How should interested parties who may not be direct participants in Guidance Groups, engage in a meaningful way to have an impact on issues in front of the Guidance Groups?”*

The non-casework members of each group should never constitute the majority of the group and, where involved, should have relevant expertise in that discipline. These non-casework members should serve in an advisory capacity, lacking the voting privileges afforded to the practicing forensic scientists.

*“What is the best way to engage organizations playing a role in forensic science, standards development and practice?”*

To fill vacancies in the Guidance Groups, we believe that duly recognized forensic science professional associations around the country (such as the CAC) be responsible for nominating individuals to serve as members of these groups. Group members should then be drawn from those nominees. In this way, the individuals chosen to serve have a responsibility and accountability to their member organizations.

Requiring professional forensic science organizations to identify group members cannot be overemphasized and is of absolute, paramount concern to the forensic scientists we represent. And indeed, that concern is appropriate because they are the ones actually performing the casework in the laboratory without which there would be no need for guidance from any group. Additionally, there is precedent for this form of representation. The DNA Advisory Board was originally formed using a nomination method similar to the one described above. This type of membership selection allows for accountability and a fair, balanced method for the appointment and replacement of Guidance Group members. Finally, this provides greater transparency and communication since nominated members can then be responsible for reporting to their regional organizations.

### **Structure of the Guidance Groups**

*“If the Guidance Groups followed a fee-based membership model, are there appropriately-tiered systems for fees that would prevent “pricing out” organizations, including individuals?”*

In our response immediately above, we suggest that vacancies in the Guidance Groups be filled by selecting individuals from a pool of nominees established by the recognized forensic science professional organizations. If this model were followed, the professional organizations could be the financial sponsor for its members. This model has the advantage of being less likely to “price out” its members. The CAC has a history of sponsoring member representation on various forensic organizations and advisory committees. Obviously, if there were any risk that proper representation would be sacrificed due to expense, the CAC would strongly oppose any fee-based structure. We do anticipate the financial support of representatives as an issue that would need to be addressed.

*“What are the elements which make existing forensic Scientific Working Groups (SWGs) successful?”*

The Scientific Working Group on DNA Analysis Methods (SWGDM) is one example of a successful and effective SWG. They meet regularly, they are represented by a good balance of the stakeholders, and they issue guidelines by which laboratories performing DNA analysis abide without significant controversy. More generally, the most successful SWGs have well-organized websites that serve a much needed information gathering, organizing, and distribution function. For example, SWGGUN has been instrumental in helping individual examiners prepare for Daubert and Kelly-Frye admissibility challenges (see the SWGGUN “ARK Resources”). Likewise, SWGDRUG has a world-class library of drug-monographs and mass-spec library.

## **Impact of the Guidance Groups**

*“To what extent does membership and transparency impact possible adoption of guidance at the state and local level?”*

The answer to this question is that the membership composition of these groups, and the transparency with which they operate, will have the utmost impact on the acceptance of guidance at all levels. Respect for an organization’s methods and purposes are effectively established when the people they serve are being accurately represented and when the organization’s dealings are open and accessible. This is true from student clubs, to professional organizations, and even to governments around the globe. If the Guidance Groups lack the respect of the scientists they are intended to guide, any guidance they suggest is unlikely to be adopted.

## **Scope of the Guidance Groups**

This area addresses questions that could be answered through discussion of these important topics. Undoubtedly, there would be many opinions offered in response to the posed questions. However, the CAC does not currently hold a strong position on any of them. To reiterate, the main concern expressed by our members is that their opinions on these issues be represented and considered in a meaningful way via representation in the Guidance Groups making the final decisions and/or recommendations.

## **Conclusion**

It is the opinion of the California Association of Criminalists that the formation of discipline-specific Guidance Groups could have a very positive impact on the practice of forensic science in the United States, provided the following:

1. The composition of each group reflect the fact that a vast majority of the casework-trained, practicing forensic scientists in each discipline are working at the State and local level.
2. Relevant professional organizations be involved in the creation, composition, and maintenance of these groups.
3. The groups conduct their business with transparency, considering the input of all appropriate stakeholders before making their recommendations.

Approved November 12, 2013 by the California Association of Criminalists Board of Directors.