

CODE OF ETHICS OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS

PREAMBLE

This Code is intended as a guide to the ethical conduct of individual workers in the field of criminalistics. It is not to be construed that these principles are immutable laws or that they are all-inclusive. Instead, they represent general standards that each worker should strive to meet. It is to be realized that each individual case may vary, just as does the evidence with which the criminalist is concerned, and no set of guidelines or rules will precisely fit every occasion. At the same time, the fundamentals set forth in this Code are to be regarded as indicating, to a considerable extent, the conduct requirements expected of members of the profession and of this Association. The failure to meet or maintain certain of these standards will justifiably cast doubt upon an individual's fitness for this type of work. Serious or repeated infractions of these principles may be regarded as inconsistent with membership in the Association.

Criminalistics is that professional occupation concerned with the scientific analysis and examination of physical evidence, its interpretation, and its presentation in court. It involves the application of principles, techniques, and methods of the physical sciences, and has, as its primary objective, a determination of physical facts which may be significant in legal cases.

It is the duty of any person practicing the profession of criminalistics to serve the interests of justice to the best of his or her ability at all times. In fulfilling this duty, he or she will use all of the scientific means at his or her command to ascertain all of the significant physical facts relative to the matters under investigation. Having made factual determinations, the criminalist must then interpret and evaluate their findings. In this they will be guided by experience and knowledge which, coupled with a serious consideration of the analytical findings and the application of sound judgment, may enable the criminalist to arrive at opinions and conclusions pertaining to the matters under study. These findings of fact, conclusions, and opinions should then be reported, with all the accuracy and skill of which the criminalist is capable, to the end that all may fully understand and be able to place the findings in their proper relationship to the problem at issue.

In carrying out these functions, the criminalist will be guided by those practices and procedures which are generally recognized within the profession to be consistent with a high level of professional ethics. The motives, methods, and actions of the criminalist shall at all times be above reproach, in good taste, and consistent with proper moral conduct.

I. ETHICS RELATING TO SCIENTIFIC METHOD:

- A. The criminalist has a truly scientific spirit and should be inquiring, progressive, logical, and unbiased.
- B. The true scientist will make adequate examination of his or her materials, applying those tests essential to proof. The criminalist will not, merely for the sake of bolstering his or her conclusions, utilize unwarranted and superfluous tests in an attempt to give apparent

greater weight to the results.

- C. The modern scientific mind is an open one, incompatible with secrecy of method. Scientific analyses will not be conducted by "secret processes", nor will conclusions in case work be based upon such tests and experiments as will not be revealed to the profession. This section is not intended to compel the issuance of a written report fully documenting all tests, experiments, and conclusions in every case.
- D. A proper scientific method demands reliability of validity in the materials analyzed. Conclusions will not be drawn from materials which themselves appear unrepresentative, atypical, or unreliable.
- E. A truly scientific method requires that no generally discredited or unreliable procedure be utilized in the analysis.
- F. The progressive worker will keep abreast of new developments in scientific methods and in all cases view them with an open mind. This is not to say that one need not be critical of untried or unproved methods, but will recognize superior methods, if and when, they are introduced.

II. ETHICS RELATING TO OPINIONS AND CONCLUSIONS:

- A. Valid conclusions call for the application of proven methods. Where it is practical to do so, the competent criminalist will apply such methods throughout. This does not demand the application of "standard test procedures." But, where practical, use should be made of those methods developed and recognized by this or other professional societies.
- B. Tests are designed to disclose true facts and all interpretations shall be consistent with that purpose and will not be knowingly distorted.
- C. Where appropriate to the correct interpretation of a test, experimental controls shall be made for verification.
- D. Where possible, the conclusions reached as a result of analytical tests are properly verified by re-testing or by the application of additional techniques.
- E. Where test results are inconclusive or indefinite, any conclusions drawn shall be fully explained.
- F. The scientific mind is unbiased and refuses to be swayed by evidence or matters outside the specific materials under consideration. It is immune to suggestion, pressures, and coercions inconsistent with the evidence at hand, being interested only in ascertaining facts.
- G. The criminalist will be alert to recognize the significance of a test result as it may relate to the investigative aspects of a case. In this respect, however, the criminalist's interpretations will scrupulously avoid confusing scientific fact with investigative theory.
- H. Scientific method demands that the individual be aware of one's own limitations and refuse to extend one's self beyond them. It is both proper and advisable that the scientific worker

should seek knowledge in new fields; he or she will not, however, be hasty to apply such knowledge before adequate training and experience has been achieved.

- I. Where test results are capable of being interpreted to the advantage of either side of a case, the criminalist will not choose that interpretation favoring the side by which he or she is employed merely as a means to justify his or her employment.
- J. It is both wise and proper that criminalists be aware of the various possible implications of their opinions and conclusions and be prepared to weigh them, if called upon to do so. In any such case, however, they will clearly distinguish between that which may be regarded as scientifically demonstrated fact and that which is speculative.

III. ETHICAL ASPECTS OF COURT PRESENTATION:

- A. The expert witness is one who has substantially greater knowledge of a given subject or science than has the average person. An expert opinion is properly defined as "the formal opinion of an expert." Ordinary opinion consists of one's thoughts or beliefs on matters, generally unsupported by detailed analysis of the subject under consideration. Expert opinion is also defined as the considered opinion of an expert, or a formal judgment. It is to be understood that an "expert opinion" is an opinion derived only from a formal consideration of a subject within the expert's knowledge and experience.
- B. The ethical expert does not take advantage of the privilege to express opinions by offering opinions on matters within his or her field of qualification to which he or she has not given formal consideration.
- C. Regardless of legal definitions, the criminalist will realize that there are degrees of certainty represented under the single term of "expert opinion." He or she will not take advantage of the general privilege to assign greater significance to an interpretation than is justified by the available data.
- D. Where circumstances indicate it to be proper, the expert will not hesitate to indicate that, while he or she has an opinion, derived of study, and judgment within their field, the opinion may lack the certainty of other opinions he or she might offer. By this or other means, the expert takes care to leave no false impressions in the minds of the jurors or the court.
- E. In all respects, the criminalist will avoid the use of terms, and opinions which will be assigned greater weight than are due them. Where an opinion requires qualification or explanation, it is not only proper but incumbent upon the witness to offer such qualification.
- F. The expert witness should keep in mind that the lay juror is apt to assign greater or less significance to ordinary words of a scientist than to the same words when used by a lay witness. The criminalist, therefore, will avoid such terms as may be misconstrued or misunderstood.
- G. It is not the object of the criminalist's appearance in court to present only that evidence which supports the view of the side to which he or she is employed. The criminalist has a moral obligation to see to it that the court understands the evidence as it exists and to

present it in an impartial manner.

- H. The criminalist will not by implication, knowingly or intentionally, assist the contestants in a case through such tactics as will implant a false impression in the minds of the jury or the court.
- I. The criminalist, testifying as an expert witness, will make every effort to use understandable language while presenting explanations and demonstrations in order that the jury will obtain a true and valid concept of the testimony. The use of unclear, misleading, circuitous, or ambiguous language with a view of confusing an issue in the minds of the court or jury is unethical.
- J. The criminalist will answer all questions in a clear, straight-forward manner and will refuse to extend his or her responses beyond their field of competence.
- K. Where the expert must prepare photographs or offer oral "background information" to the jury or court in respect to a specific type of analytic method, this information shall be reliable and valid, typifying the usual or normal basis for the method. The instructional material shall be of a level that will provide the jury or the court with a proper basis for evaluating the subsequent evidence presentations, and not such as would provide them with a lower standard than the science demands.
- L. Any and all photographic displays shall be made according to acceptable practice, and shall not be intentionally altered or distorted with a view to misleading court or jury.
- M. By way of conveying information to the court, it is appropriate that any of a variety of demonstrative materials and methods be utilized by the expert witness. Such methods and materials shall not, however, be unduly sensational.

IV. ETHICS RELATING TO THE GENERAL PRACTICE OF CRIMINALISTICS:

- A. Where the criminalist engages in private practice, it is appropriate that he or she set a reasonable fee for his or her services.
- B. No services shall ever be rendered on a contingency fee basis.
- C. It shall be regarded as ethical for one criminalist to re-examine evidence materials previously submitted to, or examined by, another. Where a difference of opinion arises, however, as to the significance of the evidence or to test results, it is in the interest of the profession that every effort be made by both analysts to resolve their conflict before the case goes to trial.
- D. Generally, the principles of "attorney-client privilege" and "work product doctrine" are considered to apply to the work of a physical evidence consultant, except in a situation where a miscarriage of justice might occur. Justice should be the guiding principle. It is considered ethical for the discovery of work performed by a physical evidence consultant to be limited by legally allowed exceptions. Nothing in this code shall be intended to conflict with the California Evidence Code, the California Code of Civil Procedure, the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, and/or the Federal Rules of

Civil Procedure.

- E. It shall be ethical for one of this profession to serve an attorney in an advisory capacity regarding the interrogation of another expert who may be presenting testimony. This service must be performed in good faith and not maliciously. Its purpose is to prevent incompetent testimony, not to thwart justice.

V. ETHICAL RESPONSIBILITIES TO THE PROFESSION:

In order to advance the profession of criminalistics, to promote the purposes for which the Association was formed, and encourage harmonious relationships between all criminalists of the State, each criminalist has an obligation to conduct himself or herself according to certain principles. These principles are no less matters of ethics than those outlined above. They differ primarily in being for the benefit of the profession rather than specific obligations to society. They, therefore, concern relationships between individuals and/or departments, business policies, and similar matters.

- A. It is in the interest of the profession that information concerning any new discoveries, developments, or techniques applicable to the field of criminalistics be made available to criminalists generally. A reasonable attempt should be made by any criminalist having knowledge of such developments to publicize or otherwise inform the profession of them.
- B. Consistent with this and like objectives, it is expected that the attention of the profession will be directed toward any tests or methods in use that appear invalid or unreliable so that they may be properly investigated.
- C. In the interest of the profession, the individual criminalist should refrain from seeking individual publicity or publicity for his or her accomplishments on specific cases. The preparation of papers for publication in appropriate media, however, is considered proper.
- D. The criminalist shall discourage the association of his or her name with developments, publications, or organizations in which he or she has played no significant part, merely as a means of gaining personal publicity or prestige.
- E. The CAC has been organized primarily to encourage a free exchange of ideas and information between members. It is, therefore, incumbent upon each member to treat with due respect those statements and offerings made by his or her associates. It is appropriate that no member shall unnecessarily repeat statements or beliefs of another as expressed at CAC seminars.
- F. 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.
- G. This Code may be used by any criminalist in justification of his or her conduct in a given case with the understanding that he or she will have the full support of this Association.

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