Bill as Introduced

SB 120 – AS INTRODUCED

2003 SESSION

03-0621
03/01

SENATE BILL ***120***

AN ACT relative to testimony by the state personnel in criminal cases.

SPONSORS: Sen. Clegg, Dist 14; Sen. D'Allesandro, Dist 20; Rep. Welch, Rock 79; Rep. Tholl, Coos 2; Rep. Langley, Rock 88

COMMITTEE: Judiciary

ANALYSIS

This bill permits the state forensic toxicologist or any department of safety laboratory employee to testify by video teleconference; provided, that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the toxicologist or at the department of safety laboratory.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03-0621
03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to testimony by the state personnel in criminal cases.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Subdivision; Testimony by State Personnel in Criminal Cases. Amend RSA 516 by inserting after section 36 the following new subdivision:

Testimony by State Personnel in Criminal Cases

516:37 Testimony by State Personnel in Criminal Cases. In any criminal case at which the state forensic toxicologist or any department of safety laboratory employee is summoned to testify, the state may move to take the testimony of the state forensic toxicologist or department of safety laboratory employee by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the toxicologist or at the department of safety laboratory. Examination and cross-examination of the toxicologist or department of safety laboratory employee shall proceed in the same manner as permitted at trial.

2 Effective Date. This act shall take effect January 1, 2004.

Amendments

Sen. Foster, Dist. 13
March 24, 2003
2003-0964s
03/01

IF this amendment is adopted by the Committee, please deliver to the House Clerk (Room 317) or Senate Clerk (Senate Chamber), the 2 originals and 2 copies.

Amendment to SB 120

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Testimony by State Personnel in Criminal Cases. Amend RSA 516 by inserting after section 36 the following new subdivision:

Testimony by State Personnel in Criminal Cases

516:37 Testimony by State Personnel in Criminal Cases. In any criminal case at which the state forensic toxicologist or any department of safety laboratory employee is summoned to testify, the state may move to take the testimony of the state forensic toxicologist or department of safety laboratory employee by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the toxicologist or at the department of safety laboratory. Notice shall be provided to the defendant, and the defendant shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the defendant. Examination and cross-examination of the toxicologist or department of safety laboratory employee shall proceed in the same manner as permitted at trial.

Sen. Foster, Dist. 13
March 24, 2003
2003-0965s
03/01

Amendment to SB 120

Amend the title of the bill by replacing it with the following:

AN ACT relative to testimony by video teleconference in criminal cases.

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Testimony by Video Teleconference in Criminal Cases. Amend RSA 516 by inserting after section 36 the following new subdivision:

Testimony by Video Teleconference in Criminal Cases

516:37 Testimony by Video Teleconference in Criminal Cases.

I. In any criminal case at which the state forensic toxicologist or any department of safety laboratory employee is summoned to testify, the state may move to take the testimony of the state forensic toxicologist or department of safety laboratory employee by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the toxicologist or at the department of safety laboratory. Notice shall be provided to the defendant, and the defendant shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the defendant. Examination and cross-examination of the toxicologist or department of safety laboratory employee shall proceed in the same manner as permitted at trial.

II. In any criminal case at which the defendant summons an expert witness to testify on matters within the jurisdiction of the state forensic toxicologist or department of safety laboratory, the defendant may move to take the testimony of the expert witness by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety laboratory. Notice shall be provided to the state, and the state shall have an opportunity to object to the introduction of testimony by video teleconference. Examination and cross-examination of the expert witness shall proceed in the same manner as permitted at trial.

2003-0965s

AMENDED ANALYSIS

This bill permits certain testimony to be taken by video teleconference in criminal cases, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety laboratory.

Senate Judiciary
March 25, 2003
2003-0975s
03/01

Amendment to SB 120

Amend the title of the bill by replacing it with the following:

AN ACT relative to testimony by video teleconference in criminal cases.

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Testimony by Video Teleconference in Criminal Cases. Amend RSA 516 by inserting after section 36 the following new subdivision:

Testimony by Video Teleconference in Criminal Cases

516:37 Testimony by Video Teleconference in Criminal Cases.

I. In any criminal case at which the state forensic toxicologist or any department of safety laboratory employee is summoned to testify, the state may move to take the testimony of the state forensic toxicologist or department of safety laboratory employee by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the toxicologist or at the department of safety laboratory. Notice shall be provided to the defendant, and the defendant shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the defendant. Examination and cross-examination of the toxicologist or department of safety laboratory employee shall proceed in the same manner as permitted at trial.

II. In any criminal case at which the defendant summons an expert witness to testify on matters within the jurisdiction of the state forensic toxicologist or department of safety laboratory, the defendant may move to take the testimony of the expert witness by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety laboratory. Notice shall be provided to the state, and the state shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the state. Examination and cross-examination of the expert witness shall proceed in the same manner as permitted at trial.

2003-0975s

AMENDED ANALYSIS

This bill permits certain testimony to be taken by video teleconference in criminal cases, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety laboratory.

Rep. Stevens, Carr. 7
Rep. Nedeau, Belk. 30
May 20, 2003
2003-1703h
03/01

Vote 17-1
not present

Amendment to SB 120

Amend RSA 516:37 as inserted by section 1 of the bill by replacing it with the following:

516:37 Testimony by Video Teleconference in Criminal Cases.

I. In any criminal case at which a certifying scientist from the office of community and public health, a criminalist or technical specialist from the forensic laboratory of the department of safety, division of state police, or a laboratory scientist from the department of corrections is summoned to testify, the state may move to take the testimony of the scientist, criminalist, or specialist by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the certifying scientist or at the forensic laboratory or the department of corrections. Notice shall be provided to the defendant, and the defendant shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the defendant. Examination and cross-examination of the scientist, criminalist, or specialist shall proceed in the same manner as permitted at trial.

II. In any criminal case at which the defendant summons a toxicologist, criminalist, laboratory scientist, or other person of similar expertise to testify as an expert witness, the defendant may move to take the testimony of that witness by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by a certifying scientist from the office of community and public health, or at the forensic laboratory of the department of safety, division of state police, or at the department of corrections. Notice shall be provided to the state, and the state shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the state. Examination and cross-examination of the expert witness shall proceed in the same manner as permitted at trial.

2003-1703h

AMENDED ANALYSIS

This bill permits certain testimony to be taken by video teleconference in criminal cases.

Committee Minutes

Judiciary Committee

Hearing Report

To: Members of the Senate

From: Susan Duncan
Senior Legislative Aide

Re: **SB 120** – *AN ACT relative to testimony by the state personnel in criminal cases*

Hearing date: February 20, 2003

Members present: Senators Peterson, Foster, Clegg and Roberge

Members absent: Senator Sapareto

Sponsor(s): Senators Clegg, D'Allesandro
Representatives Welch, Tholl and Langley

What the bill does: This bill permits the state forensic toxicologist or any department of safety laboratory employee to testify by video teleconference; provided, that the testimony is limited to expert testimony or to the results of and matter relating to tests conducted by the toxicologist or at the department of safety laboratory.

Who supports the bill: Senator Clegg
John Stephen, Assistant Commissioner, Dept. of Safety
Susan Lefebvre, Program Manager, Public Health Labs, DHHS

Who opposes the bill: No one spoke in opposition

Summary of testimony received:

- This legislation was filed at the request of the Department of Safety in order to help the toxicologists from having to travel all over the state to appear at hearings and trials.
- One person in the Department of Safety received 600 subpoenas last year and actually testified in only 22 cases. The "down time" is enormous and makes it difficult for employees to get all their work finished.

- While there may be issues regarding the right to face your accuser, Assistant Commissioner Stephen testified that he believes that it's constitutional as long as it's two-way video conferencing. He indicated that there is a Supreme Court case on this, but he neglected to bring it to the hearing.
- Every District Court is being equipped with monitors to allow video conferencing. While the cost will be an issue at DOS and HHS, they can begin addressing it.
- He noted the "beautiful" state-of-the-art equipment already at Merrimack County Superior Court.
- Senator Foster commented on his concern of not being able to "read the body language" of the expert witness.
- Assistant Commissioner Stephen said that their testimony is based on the results of the lab work. He responded that he didn't have a problem if each lab analyst has to be certified in each court. He said that very rarely does the trial get into the finite details of the lab test results.
- Assistant Commissioner Stephen noted that credibility determinations such as facial expressions can be viewed with the video monitors. There are large monitors and jurors can sometimes see the witness better on the monitor than they can on the stand.
- Senator Peterson requested clarification of the number of subpoenas. AC Stephen noted that in all 600 cases, the schedules have to be adjusted.
- Currently Safety has about 15 people working on these tests. Health and Human Services has more of an impact because they do the tests on the DWI trials.
- AC Stephen noted that they could be much more efficient at Safety with the ability to have video conferencing.
- Senator Foster inquired what else do the individuals at Safety do, such as other forensic exams based on clothing. AC Stephen responded that they do "everything" and that sometimes the trial hinges on this evidence. He suggested that the committee look at the jail system and how they are currently doing video arraignments.
- Senator Foster inquired of the result of the challenge to video arraignments. Attorney Lehmann responded that the practice was affirmed by the Supreme Court.
- **Senator Peterson requested a copy of that Supreme Court decision.**
- **Senator Clegg asked that AC Stephen get back to the committee with information regarding the 600 subpoenas and give a breakdown as to the types of crime: murders, possession, etc.**
- AC Stephen said that he would get back to the committee and that he has already looked at the subpoenas – most are minor possession charges.

- AC Stephen went on to further explain that in order to testify as an expert witness in New Hampshire, the person must be certified as an expert under NH Rule 703.
- **Senator Peterson asked if other states allow video conferencing on forensic evidence**. Assistant Commissioner Stephen said that he would check on this and get back to the committee.
- Susan Lefebvre from HHS testified that an ability to provide testimony without leaving the laboratory would significantly save staff time and would enable them to be more productive in expediting lab test results.
- She noted that the certified scientist may not be the same person as the forensic toxicologist. She noted that the defendant has the right to call the person who does the certification. The toxicologist checks the test and signs on behalf of the laboratory.
- Senator Peterson asked if the language change is so that the bill covers all the HHS lab personnel. Ms. Lefebvre responded "yes."
- Currently there are 13 lab personnel at HHS (including Ms. Lefebvre).
- Salaries at HHS are 15% to 20% of what is paid at the Safety Crime Lab. Employee retention is a problem at HHS. There have been times where the lab had vacancies for over a year, but currently all positions are filled.
- Senator Peterson inquired regarding the education required and the pay scale. Ms. Lefebvre responded that an undergraduate degree in a scientific field with a minimum of 3 years lab experience is required. A Toxicologist I is labor grade 19; a Toxicologist IV is labor grade 29. Forensic toxicologists are unclassified and they have two of these now.
- The challenge in the lab is to try to identify the drug used. If they could sign off reports and not have to appear in court, they could address their backlog of work in the lab (making a difference by months).
- Assistant Commissioner Stephen noted for the record that the Department of Safety Laboratory performed during the month of January:

42 serology (blood)	13 DWI
83 fingerprints	3 firearms
9 trace	14 footwear and other class
2 computer analysis	509 drug analysis

Funding: No fiscal note is attached to the bill.

Future action: The committee took the bill under advisement. Materials were requested during the course of the hearing (see bold above).

sfd
[file: SB 120 report]
Date: February 25, 2003

LLB

Date: February 20, 2003
Time: 4:10 p.m.
Room: State House, Room 105-A

The Senate Committee on Judiciary held a hearing on the following:

SB 120 relative to testimony by the state personnel in criminal cases

Members of Committee present: Senator Peterson
Senator Foster
Senator Clegg
Senator Roberge

The Chair, Senator Andrew R. Peterson, opened the hearing on SB 120 by calling on Senator Clegg, prime sponsor of the bill, to provide testimony.

Senator Robert Clegg, Jr., D. 14: Thank you, Mr. Chairman and members of the Committee. For the record, Senator Clegg from District 14. I put the bill in for Safety.

The bill is an attempt to assist forensic toxicologists and other laboratories from having to travel all over the State to testify, only to find out when they get there that they are not needed. The bill is pretty self-explanatory. It is video teleconferencing or provide that the testimony is limited to expert testimony, the results of the toxicologist. I probably can't answer as many questions as the next speaker, but I will try if you have any.

Senator Andrew R. Peterson, D. 11: Questions from the Committee?

Senator Joseph A. Foster, D. 13: I do, but I will defer.

Senator Andrew R. Peterson, D. 11: I will call John Stephen, representing the Department of Safety.

Assistant Commissioner John Stephen: Thank you, Mr. Chairman. For the record, John Stephen, Assistant Commissioner for the Department of Safety.

This is a request the Department made after looking at and doing a study at our Department of the number of cases that we were subpoenaed, our lab techs or our lab officials, were subpoenaed to criminal trials, the number of actual times they testified, how many times they leave Safety, the fact that we have a six to seven month backlog in drug tests. We serve all the local police; we do all their examinations. We testify at all the criminal trials for the locals. We don't just do this for State Police; this is for everyone. It is becoming such a burden for us and not only us, it is also Health & Human Services with their toxicologists.

What we find out is that we have the vehicle. These analysts leave Safety. They go to court. They either get there at 9:00 if they are subpoenaed or they get there at 1:00. They sit around. They wait. They are not doing their work for the Department, what they are paid to do. Then the case ends up being disposed of or plead. There has to be a better way.

We had one individual 600 subpoenas last year for criminal trials. Out of those, he was called to actually testify in twenty-two. He appeared at these twenty-two trials and he actually testified in seven. So, the downtime is enormous and, at some point, the State's gotta look at this issue and can we do a better job.

This is really efficiency if you want to call it that. What I think we need to look at, and I know there is gonna be an issue of confrontation. That is the key issue here. I would like to see this bill get passed. I think it's constitutional as long as there is that two-way communication. I think the video conferencing aspect is different that video and there is a Supreme Court case. Unfortunately, I don't have it today. There is a Supreme Court case that directly addresses the issue of confrontation clause as it applies to videotape. But, this would be different because now, today, we can sit there and communicate one on one via video. If it applies to these experts, we are not asking to have it apply to everyone, I think it might be helpful to us and meet the constitutional standards.

The other day we were talking about homeland security issues at the Department and somebody wants to use or put in a bid for a certain item and asked me to look at a website that they do for security camera monitoring. So, I checked the website and I was sitting there at my monitor and I watched a number of individuals go into this little Mom and Pop store, buying all kinds of stuff and I could basically see their faces, I could see them purchasing, everything, without any problem whatsoever. It was actually people in Texas that were entering this store buying products and this company had the okay from the store and had been doing the video surveillance for this store. I can sit at my laptop and my computer terminal

and watch this activity occur. I think that, in this day and age, we all know that video conferencing is here. The cost is an issue and is going to be an issue. But, we can address the costs. If we have the enabling legislation, we can then begin looking at the costs.

Every district court is beginning to get hooked up on video conferencing. Right now today, the arraignments, at least not all at this point, but at some point they will be, will all be done video conference. I was in the Merrimack County Superior Court this past week for a CLE and they have a beautiful setup there on video conferencing. They do all their arraignments from the jail so you don't have to transport people, right there in the Superior Courthouse. This great effective two-way communication.

Can we put that into the trial setting? That's what Senator Clegg's bill is trying to do. I just think it is something that is vitally important to us and it also helps us in terms of our manpower. It is needed and we would hope that you would be encouraged to pass this bill and I would be happy to work with you in any other way, any way that you think this can work. I would be happy to answer any questions.

Senator Andrew R. Peterson, D. 11: Thank you, Commissioner. Questions from the Committee? Senator Foster?

Senator Joseph A. Foster, D. 13: You raised a concern I have. It just, I don't do criminal defense work nor have I ever worked as prosecutor, but there is that element of having somebody in the room with you. I would imagine that from time to time, only expert testimony, but can't that be the key to the prosecution is the results of the toxicologists and so forth? My concern is watching somebody on effectively television, even if you can cross-examine them, it is not the same thing as being physically present in the room nor can the jury or judge see the complete body language.

Assistant Commissioner Stephen: I guess, Senator, you have a good point, but I guess the practice, the lab analysts who testify in these cases, the testimony is based on their results and basically they are testifying to the paper results that they have done on routine tests, routine examinations. They are certified as experts in every court. I would have no problem if we were to say they would have to at least have been certified in a live setting before they do this. Yet, it is just so standard and the toxicology reports and Health & Human Services is here, very rarely do you get into this issue of no finite details and cross examination of these lab analysts. The seven cases out of six hundred just shows you what is going on. I still think that effective cross examination can be had through video conferencing because you are going to see the complexion, the facial complexions, you are going to see the

expressions, the credibility determinations are going to be able to be made, which is the important thing. It is not like you are testifying on a video. This is almost exactly like live testimony. It's just, the difference is you are just not physically right in front of the person. But, yet you are talking to that person one on one and you can set it up so that the individual testifying is testifying in such a big monitor right now that they have in the courtrooms that these juries are looking at this and you are closer and you look much clearer than you are when you are listening to a guy sit and testify on the stand. Technology can fix those problems, in my opinion.

The reports are all going to be in the hands of the defense attorneys and the prosecutors through discovery. Those reports are sent out months in advance. That's why I think if we just try to limit it to those individuals right now and see how it works, I'm sure that there will be some challenges, but I think they can be overcome.

I would welcome you to look at the Supreme Court opinion 'cause I think that leaves room for us to do this. I can't imagine our Supreme Court saying that, in this day and age, that we can never have two-way communication unless you are physically one on one present in a room, one on one. I just can't imagine that would be the case under our Constitution. No one ever envisioned video conferencing, but we all know it is here, it is here to stay and it is probably even going to be improved in the future.

Senator Andrew R. Peterson, D. 11: Further questions? Commissioner, the question, just some practical questions. You mentioned 600 subpoenas, called to testify in twenty-two, testified in seven. Just one toxicologist.

Assistant Commissioner Stephen: That's right. 600 subpoenas. It was a lab analyst, not a toxicologist.

Senator Andrew R. Peterson, D. 11: Okay. So, that was a lab analyst.

Assistant Commissioner Stephen: And that particular individual did drug cases primarily.

Senator Andrew R. Peterson, D. 11: Drug?

Assistant Commissioner Stephen: Possession of drugs, local arrests for possession of cocaine, marijuana, heroine.

Senator Andrew R. Peterson, D. 11: So, substance abuse type cases.

Assistant Commissioner Stephen: Yes. So, the issue, Senator is...

Senator Andrew R. Peterson, D. 11: The question was I just wondered what you meant by the terms. Six hundred subpoenas, that meant that he or she had to go to court six hundred times.

Assistant Commissioner Stephen: They were told that they would have to change their schedule to be ready to go to court because they got a subpoena up front in six hundred cases. What that does, if you look at our...

Senator Andrew R. Peterson, D. 11: But, they didn't actually go, except in twenty-two?

Assistant Commissioner Stephen: Correct. But, in all those cases, the schedules have to shuffle. Everyone needs to plan for that court appearance. So, we have to make sure there are enough people that day because they are gonna be gone most of the day. It causes some issues.

Senator Andrew R. Peterson, D. 11: I could well understand that it would.

Assistant Commissioner Stephen: But, if I may add a point that I didn't raise earlier. The testimony, just so that Senator Foster understands, the testimony on these drug cases is, is this cocaine, is this heroine that you tested, did you follow the appropriate standards for certification and testing and making sure you did the appropriate secondary tests? Those types of issues, I think, are good issues to be done through video conferencing, not the type of critical issues that you are dealing with a victim testifying against a defendant, an accuser testifying in a case against the accused, looking at the accused face to face.

Senator Andrew R. Peterson, D. 11: However, if it was a question of degree of certainty of scientific evidence that might hinge on the guilt or innocence of someone in a homicide trial or something, that might be equally important to have all the live face to face communication you could have with the expert.

Assistant Commissioner Stephen: I guess that's only if you assume that the face to face confrontation is necessary in lieu of this video conferencing. Can the video conferencing achieve the same purpose? Can the video conferencing do all the same types of things that are required under the Constitution?

Senator Andrew R. Peterson, D. 11: And, if so, what's good for the gander would be good for the goose as well, right? You could have this extend to all testimony.

Assistant Commissioner Stephen: Well, in answering your question, Mr. Chairman, yes, absolutely. In the child sex cases that are handled in court, there is a Supreme Court rule on video taped testimony in a child sex abuse case. There has to be certain procedures that they meet for video tape. This is not video conferencing, but I can see that being applied in some of these cases.

Senator Andrew R. Peterson, D. 11: That's so the child is not subjected to the situation in the courtroom.

Assistant Commissioner Stephen: I also note that the defense bar, I'm not sure if they have a problem with this. I haven't heard any concerns with this if it is applied to the toxicologist and forensic scientist. I haven't heard that, but that doesn't mean that they...

Senator Andrew R. Peterson, D. 11: Let me ask some questions about the Department. I have been over to visit the lab and so forth and appreciate very much the work that is done. How many people are employed at the Department of Safety as toxicologists and lab analysts and so forth? What type of number are we talking about?

Assistant Commissioner Stephen: I believe we have fifteen. We don't have any toxicologists that are employed by us. The toxicologists are at the Department of Health & Human Services.

Senator Andrew R. Peterson, D. 11: And, we're going to hear from them in a second.

Assistant Commissioner Stephen: Their problem is even worse than some of our problems because they testify in the standard DWI cases. I feel terribly bad for those two toxicologists. There is one that every single DWI trial, he is subject to being subpoenaed and needs to be in almost every district court in the State. Oftentimes he shows up and is told he can go back to Health & Human Services now.

Senator Andrew R. Peterson, D. 11: Is it fair to say that it is a bit difficult for the State, at least in your Department and perhaps for Health & Human Services you can speak for as well, to obtain the services of qualified people and retain them?

Assistant Commissioner Stephen: Retention is a major issue. Yes, in answering your question. But, what this would do, though, the effect of this bill, in my opinion, we would be able to produce results for the courts and for the police and even for the defense in a much more quicker and efficient way.

You know, we have a six month backlog on some of these drug cases, which is just too much for some of these cases, but that's the reality. That would be cut down substantially and that's important to us, to be more efficient.

Senator Andrew R. Peterson, D. 11: As it is to us as well. Thank you. Senator Foster?

Senator Joseph A. Foster, D. 13: Because I haven't been to a lab, which maybe I need to do. What else do these individuals do? You talked about drug testing and so forth. Do they get involved in other sorts of forensic examinations, blood on clothing...?

Assistant Commissioner Stephen: Everything, everything. Gun shot wounds. We do class examinations on fiber, fabric. Sometimes it is pivotal testimony in the case. I'm not going to say it isn't.

Senator Joseph A. Foster, D. 13: I hate to say this, but the world's worst trial ever, obviously, but if you think of the OJ Simpson trial, there were days of expert witness testimony. Is that what we are talking about?

Assistant Commissioner Stephen: It is. I have won cases as a prosecutor on matching jeans in a vehicle to the dashboard of a car showing that this was the operator because he was wearing the same jeans. This one piece of testimony was the key point that convicted someone of a homicide. That happens. But, again, go back to the video conferencing, and maybe a good suggestion would be, and this is why I believe that just for Senator Clegg bringing this in, this hasn't come in before.

It's great that we are having this discussion and maybe you need to look at the jail system and how they use the arraignments, the video conferencing for the arraignments. If you see how crystal clear that is. They are setting bail in major cases on those issues right today. If we could have that same technology apply, that would help us.

Senator Joseph A. Foster, D. 13: That was a challenge, wasn't it? And, it was upheld?

Assistant Commissioner Stephen: It was upheld.

Senator Joseph A. Foster, D. 13: Was it a Supreme Court decision?

Assistant Commissioner Stephen: I don't know. I think it may have been a Superior Court decision. I'm not sure.

Attorney Lehman: The video arraignment case? The video arraignment case was a Supreme Court case and actually the reason that that is kind of interesting is that it was actually the defendant who wasn't present in the courtroom.

Senator Joseph A. Foster, D. 13: And they felt the judge wanted to see...

Attorney Lehman: No, the practice was upheld. The challenge was that the defendant not being present in the courtroom wasn't able to present their case. I would say that actually with a witness, particularly one whose testimony in many cases may be standard and not crucial, but...

Senator Andrew R. Peterson, D. 11: But, before we do that, maybe we could have a copy of the decision.

Attorney Lehman: I have it right here, but I don't have a way to print it out here.

Senator Andrew R. Peterson, D. 11: If we could get a print out of it, I think that might be helpful in this bill. Senator Clegg had a question.

Senator Robert Clegg, Jr., D. 14: Commissioner, just can you give us an idea... I know you are seven, eight, nine months behind in your testing, but can you get back to us with, take that one guy who had 608 subpoenas. Can you give me a breakdown of what the cases were, how many of them were murder cases or negligent homicide, that type of thing, and how many of them were small possession cases. You know what I am looking for?

Assistant Commissioner Stephen: Absolutely and I have already looked at all the subpoenas so I can get that information and tell you that the vast majority were simple possession of drugs.

Senator Robert Clegg, Jr., D. 14: And, I'm thinking that maybe you said you would work with us with the bill, maybe there is a cutoff when a toxicologist or an analyst has to...

Assistant Commissioner Stephen: I think that's a great suggestion.

Senator Andrew R. Peterson, D. 11: If we could look at a breakdown of how the cases flow, I think that would be of interest.

Assistant Commissioner Stephen: I think that is a great suggestion. I will definitely get that information for the Committee.

Senator Andrew R. Peterson, D. 11: Thank you. Other questions from the Committee? I had one. Commissioner, you had mentioned a phrase "certified in live circumstances". I was nodding my head without any understanding of what you meant.

Assistant Commissioner Stephen: I guess that's my error for assuming again that you people know some of these laws and the judicial setting. In order to testify as an expert in any court of law, you need to, under New Hampshire Rule of Evidence 703, be certified as an expert. It is a foundational requirement. So, the prosecutor presenting the evidence has to lay that foundation and the foundation is such, the background, the experience.

At some point during that colloquy you ask the court to certify this individual as an expert in that particular area. The defense will either agree or not agree and sometimes the defense may ask for a voir dire exam outside the presence of a jury to just ask some more questions. Then the judge makes the final decision.

Before the expert can give an opinion on any of the examinations, the expert has to be deemed certified in the court of law as an expert. Once you are certified though, it becomes easy because the issue then for the prosecution and others is, have you been certified in a court of law in the past, have you been certified to testify about these particular examinations? Yes, yes. Then that's it and you don't have to go through that whole colloquy again.

Senator Andrew R. Peterson, D. 11: Thank you.

Senator Robert Clegg, Jr., D. 14: Colloquy? Is that a carnival ride?

Assistant Commissioner Stephen: No.

Senator Andrew R. Peterson, D. 11: Further questions?

Assistant Commissioner Stephen: I will be happy to help the Committee. I will get this information for you. I also, if I may, I did want to leave this because I remember the lab director giving these subpoena lists for monthly lab activity report and drug cases. The number of cases that were analyzed, the month, and how often, how many subpoenas they received, and how many hours were expended for the month. It was eighty hours in testifying.

Senator Robert Clegg, Jr., D. 14: Do you only have one copy? Can you wait and give us a package?

Assistant Commissioner Stephen: I was just going to say I will make a nice package.

Senator Robert Clegg, Jr., D. 14: Because our budget is a lot tighter than yours, so we prefer to use your paper.

Assistant Commissioner Stephen: But, the Governor doesn't want us to use paper, but I will have it in paper form for you.

Senator Andrew R. Peterson, D. 11: I have another question. Are there any other states who have allowed this?

Assistant Commissioner Stephen: I don't know the answer to that question. It's a good question and I will check on that myself.

Senator Andrew R. Peterson, D. 11: Thank you. We have been keeping Susan Lefebvre waiting and I apologize for that. Did you wish to speak on this bill?

Susan Lefebvre: Yes.

Senator Andrew R. Peterson, D. 11: Please come forward. Representing the Department of Health & Human Services.

Ms. Lefebvre: I have prepared a little brief testimony and, in reviewing it this afternoon as I have been sitting here, I realized that I needed to amend what I had drafted so I can provide it in a written format at a later time.

Good afternoon and thank you for hearing me. Mr. Chair and members of the Committee, my name is Susan Lefebvre. I am the Chemistry Program Manager for the Public Health Laboratories. My testimony today is in support of SB 120.

The Department of Health & Human Services, Office of Community and Public Health supports this bill, but requests an amendment. The certified scientist in the Public Health Laboratory provides expert testimony in cases involving DWI, issues of alcohol or drug use in motor vehicle issues, whether it's an accident or an arrest dealing with being under the influence. An ability to provide testimony without having to remove themselves from the laboratory or at least going a shorter distance to provide video conference testimony would be a significant improvement and ability of saving staff time and ability to provide additional services to the public and to law enforcement and being more productive and expediting the test results that are requested by law enforcement.

In the proposed legislation, there is a phrase asking for state forensic toxicologist. We would recommend, I don't have lines, but it would be in the first, second sentence, any criminal case at which the state forensic toxicologist, amend that certifying scientist to be consistent with RSA 265:90 and RSA 270:56.

We would also recommend, further on in that same paragraph, that the words...

Senator Andrew R. Peterson, D. 11: Do you have this in writing?

Ms. Lefebvre: I will. I had it, but what I had wasn't appropriate. I made a change to it.

Senator Andrew R. Peterson, D. 11: We're on line 4, in which the certifying scientist, and those words replace state forensic toxicologist. Is that correct?

Ms. Lefebvre: Yes.

Senator Andrew R. Peterson, D. 11: Okay. Proceed please.

Ms. Lefebvre: Then, further on where it says testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the toxicologist. Amend tests conducted by the toxicologist to tests conducted at the Public Health Laboratories, or by Public Health Laboratory personnel, which would be consistent with the latter part of the statement, Department of Safety Laboratory.

Senator Andrew R. Peterson, D. 11: Are those the areas?

Ms. Lefebvre: Yes. Our reason for that, the way the statute reads now, within a certain period of time, under RSA 265:90 and 270:56, the defense has a right to call the certifying scientist, the person who signed the report, to testify on the issue. In the Public Health Laboratories, there is more than one individual that would handle the sample and perform the tests, but the total of the tests are reviewed and later signed by the toxicologist, who then acts on behalf of the Laboratory. There are times when the toxicologist who usually does the testimony may not be available and another individual has signed the report. It would still be the certifying scientist, but may not be the forensic toxicologist. It's a name semantic. The reports are signed by the certifying scientist, who could be the forensic toxicologist, could be myself. My title is Laboratory Scientist. So, we hold different names, but have the capacity to sign.

Senator Andrew R. Peterson, D. 11: You want the bill to cover all your personnel, essentially, who are doing this activity?

Ms. Lefebvre: Yes.

Senator Andrew R. Peterson, D. 11: I understand that and I'm trying not to interrupt, but the question I would have is on line 6 of the bill. We have the state may move to take the testimony of the state forensic toxicologist. Now, is that term an anachronism?

Ms. Lefebvre: That should be the term certifying scientist.

Senator Andrew R. Peterson, D. 11: Okay. So, we need to make it certifying scientist on down through. Is that correct?

Ms. Lefebvre: Yes.

Senator Andrew R. Peterson, D. 11: It is on line 6 as well. And, if we were to change the two references on lines 4, 5 and 6 to certifying scientist and the words after conducted on line 8 to the Public Health Laboratory or at the Department of Safety Laboratory, that would cover the concerns of Health & Human Services with the bill?

Ms. Lefebvre: Yes, it would.

Senator Andrew R. Peterson, D. 11: Thank you. Are there questions from the Committee? I have a couple for you as well just so that we can understand better your operation. How many people are we talking about over at HHS that are involved?

Ms. Lefebvre: Individuals performing the tests and the certifying toxicologist, thirteen individuals.

Senator Andrew R. Peterson, D. 11: Of which you are one?

Ms. Lefebvre: Yes.

Senator Andrew R. Peterson, D. 11: We had a bill before us last year relative to making lab personnel in the Department of Safety Group II because it would be a way to keep them as they were overworked and highly skilled and difficult to obtain for the salaries paid and difficult to retain with the work schedule. At least that's what was presented and I certainly heard enough to believe it. Are there people in your Department similarly

burdened at this time? Are the thirteen of you trying to handle what you are, how long are the backlogs? Can you give me an idea of the working environment?

Ms. Lefebvre: The backlog is similar to what has been described by the Department of Safety Assistant Commissioner Stephen. Recruitment and retention for the Public Health Laboratory personnel in this area has been extremely difficult. The last few employees that we have hired, the latest one has been here a year now, was recruited from the country of Bermuda. No other applicants were suitable. Another individual came from Columbia. The salaries at the Public Health Laboratory are roughly 15 to 20% less than that of the State Police Crime Lab employees.

Senator Andrew R. Peterson, D. 11: And I was frankly going to inquire about that specifically – what type of salary range is paid for these tasks? I don't want to do it for other than purposes of the public record, but I do think it is important that we understand the work conditions and if this type of approach would relieve a burden and that is relevant to this bill. In other words, relieve a burden on personnel from what they have to deal with on a daily basis and that would be helpful to you. I would just like to get that on the record.

Ms. Lefebvre: It has been very difficult to recruit and maintain employees in this particular area. It has been difficult in the Public Health Laboratory in general in the toxicology realm dealing with DWI issues. Staffing in that area has been difficult to fill. We have had vacancies in excess of a year with no individuals seeking that type of employment.

Senator Andrew R. Peterson, D. 11: How many vacancies do you have now of these slotted positions?

Ms. Lefebvre: Those positions are currently full.

Senator Andrew R. Peterson, D. 11: So, you're full at thirteen?

Ms. Lefebvre: Yes. The training involved in getting an individual to a position where they could perform any of the analyses in our Laboratory is still ongoing. The individual who is in charge of that particular unit is still not certified to do all those tests and she has been in that position for about, I want to say, four years. It is a situation of we cover all the tests, but we are limited in the number of individuals that can perform that test because of turnover and just trying to recruit. So, that doesn't help us in our burden of trying to move the tests along.

Senator Andrew R. Peterson, D. 11: What type of pay scales are we talking about? What type of education levels are required?

Ms. Lefebvre: We require for entry level for our toxicologist position an undergraduate degree in the science, chemistry preferred, biology is accepted. In the scientific field with a minimum of three years experience, laboratory experience.

Senator Andrew R. Peterson, D. 11: And, about what are the pay grades? Does it vary with the classifications?

Ms. Lefebvre: Yes, it does. A toxicologist I is a labor grade 19; a toxicologist IV is a labor grade 29. Our forensic toxicologist positions are unclassified and we have two of those.

Senator Andrew R. Peterson, D. 11: So, your classified employees would be eleven of the thirteen. Is that correct?

Ms. Lefebvre: I'm sorry.

Senator Andrew R. Peterson, D. 11: Eleven of the thirteen are classified?

Ms. Lefebvre: Yes.

Senator Andrew R. Peterson, D. 11: So, you have two unclassified positions. Is that correct?

Ms. Lefebvre: Yes.

Senator Andrew R. Peterson, D. 11: What would this mean if we were to be able to do this video conference for your people in terms of the number of subpoenas that an average, if that can be said, or a number of appointments out of the office that would be, that they would not have to appear in court, but could appear on video conference whenever needed?

Ms. Lefebvre: The difference would be an ability to review final reports and sign off. There is a backlog in reviewing the completeness of the case. There is a lot of phone consultation that is ongoing, so we would be able to continue to provide that more extensively.

We would be able to perform more work actually in the laboratory assisting with method development of new drug tests. The challenge that we have in our laboratory is being able to identify all the new types of drugs that are coming out on the market and then get prescribed and perhaps misused or

used when they shouldn't, in other words, with use of a motor vehicle, where it would cause impairment. If we are not able to see scientifically these new drugs, then it does not help the law enforcement officer to have a concrete base to support their observations in the field.

Senator Andrew R. Peterson, D. 11: We have another bill before us trying to set standards for intoxication with different drugs, so that is obviously a related topic that you are getting into now. But, what about cutting down the backlog, the cases, and speeding up the ability to offer a speedy trial and so forth? Do you see the opportunity to cut it down by some months if this was?

Ms. Lefebvre: Yes.

Senator Andrew R. Peterson, D. 11: Well, I have no further questions and I am sorry to be longwinded and keep people here. Are there other questions from the Committee? Hearing none, thank you for your testimony. No others who wish to testify on SB 120.

Assistant Commissioner Stephen: Senator, Senator Foster had asked this question and I just dug up some material. I will be very brief.

The month of January, our lab did 509 cases of drug analysis; 42 serology, which is blood exam; DWI thirteen; fingerprints 83; firearms 3; trace 9; footwear and other class 14; computer analysis 2. That gives you an idea of the monthly. That's about an average every month. That's what the average caseload is.

Senator Joseph A. Foster, D. 13: Thank you.

Senator Andrew R. Peterson, D. 11: Thank you all for your testimony. Seeing no others who wish to appear on SB 120, I am going to close the hearing on SB 120.

Hearing concluded at 4:45 p.m.

Respectfully submitted,

L. Gail Brown
Senate Secretary
2/24/03

Speakers

SENATE JUDICIARY COMMITTEE

Date 2/~~18~~20/03 Time ~~11:15~~ a.m. 4:00 Public Hearing on **SB 120**

SB 120 – relative to testimony by the state personnel in criminal cases.

Please check box(es) that apply.

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
☐	☒	☐	Susan Lefebvre	DHHS
☒	☐	☐	Sen Clegg	~~Dist~~ 14
☑	☑	☐	John Stephen	~~SA~~ Safety
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Testimony

Gail

Re: SB 120 Judiciary

STATE OF NEW HAMPSHIRE

Inter-Department Communication

FROM: Timothy J. Pifer
Laboratory Director

DATE: March 3, 2003

SUBJECT: Court Appearances

AT (OFFICE): Forensic Laboratory

TO: John A. Stephen
Assistant Commissioner

Cc: Major Barry J. Hunter
Investigative Services Bureau

Regarding the memo dated December 31, 2002 in which I highlighted Criminalist David Bean's subpoena receipts for the year 2002, I offer the following:

Of those 620 subpoenas, approximately 65% were for district courts around the state. The remaining 35% were for either superior or federal district court appearances. The most egregious waste of time come from the district court subpoenas in which the analyst is forced to travel to court, wait around for defense counsel to either stipulate to the results or to agree to a plea bargain, and then travel back to the laboratory in Concord. These district court subpoenas are for misdemeanor offenses which only include the Cannabis-type drug charges (possession). Other drug charges (possession of narcotic and/or controlled drugs, possession with intent to distribute, etc.) are held at the superior court or federal district court level.

The drug analysts do not typically travel to a superior court case unless they are absolutely required to testify. Accordingly, the other analysts in the laboratory (DNA, Firearms, Identification, etc.) do not typically have the same problem associated with the district court drug cases as most of their cases involve felony prosecutions.

I have provided several responses from around the forensic laboratory community in which other states are coming to the same realization. Unfortunately, there are only three or four states (Montana, West Virginia, Virginia) that are currently working on this. I will continue to follow up on their legislation and procedures.

As can clearly be seen from the figures previously provided, valuable analytical time is being consumed by traveling to and waiting in courthouses where the chemist is not even being called as a witness. Any sort of help rectifying or modifying current procedures would be greatly appreciated.

Thank you for your continued support of the Forensic Laboratory.

From: rankinj@marshall.edu
To: "'ForensicQA@yahoogroups.com'" <ForensicQA@yahoogroups.com>
Date: 2/24/03 4:52PM
Subject: RE: [ForensicQA] video testimony

WV has set up video testimony in nearly all counties. I have heard from some of the drug lab folks at the state police that they have used it.

J. Graham Rankin, PhD
Associate Professor
Forensic Science Program
Marshall University
Huntington, WV 25701

-----Original Message-----
From: robbinr@isp.state.il.us [mailto:robbinr@isp.state.il.us]
Sent: Monday, February 24, 2003 4:44 PM
To: ForensicQA@yahoogroups.com
Subject: Re: [ForensicQA] video testimony

I'm not aware of any we've done - unfortunately, we're reasonably close to the jurisdictions with all of the labs we have, so it's still done the old-fashioned way by travel - would be nice to be able to do video testimony.

"There is a lot more to golf than having the equipment and the intent." - Philip Crosby, Reflections on Quality

"kacey_heckman <kheckman@safety.state.nh.us>" <kheckman

To: ForensicQA@yahoogroups.com
cc:
Subject: [ForensicQA] video testimony

02/24/2003 03:29 PM

Please respond to

ForensicQA

From: jlong@state.mt.us
To: '"ForensicQA@yahoogroups.com"' <ForensicQA@yahoogroups.com>
Date: 2/24/03 4:34PM
Subject: RE: [ForensicQA] video testimony

We have the hookups in our new lab but that's as far as we've gone. We have done video depositions at local court reporter's offices. Since our state is so big, we're trying to pursue this...but it has been a slow process.

Julie Long
Montana State Crime Lab
Quality Manager
406-329-1132

-----Original Message-----
From: kacey_heckman <kheckman@safety.state.nh.us>
[mailto:kheckman@safety.state.nh.us]
Sent: Monday, February 24, 2003 2:29 PM
To: ForensicQA@yahoogroups.com
Subject: [ForensicQA] video testimony

Hi Group:

I would like to know if any of you have video testimony or video depositions in your state? That is, you can remain at the lab and remotely testify, vs traveling to the court. Thanks.

Kacey W. Heckman
NHSP Forensic Laboratory
603 271-3573

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From: ffrederick10@comcast.net
To: <ForensicQA@yahoogroups.com>
Date: 2/25/03 6:43PM
Subject: Re: [ForensicQA] video testimony

We recently installed video conferencing equipment in all 4 labs - bigs screen TVs so we can actually see each other when all 4 are on at once. We've primarily used it between labs but have had a few testimonies on it. I's been great for section meetings.

Fred Frederick, Ph.D.
Quality Assurance and Safety Coordinator
Virginia Division of Forensic Science
804-786-6820

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Video Forum Results

On April 23, 2002, a Video Forum was held with approximately 65 people from most stakeholder groups and supplier organizations attending. The purposes of this session were to:

- Provide a common understanding of videoconferencing technologies, terminology, planning and operational issues
- Provide an overview of how videoconferencing is done today using the capabilities of the Montana METNET
- Share some success stories from stakeholders who have had positive experiences utilizing videoconferencing and METNET
- Provide the opportunity for stakeholders and suppliers to describe their needs and concerns for videoconferencing for the future

In order to accomplish the last item, the group was divided into four sub-groups and was asked to report on their discussion surrounding the following questions.

- What are the most likely applications for videoconferencing for my organization?
- What are the biggest benefits to my organization of using videoconferencing?
- What are the most likely obstacles to my organization using videoconferencing?
- What alternatives should be considered for pricing videoconferencing? What do you see are the trade-offs between fixed pricing and usage based pricing?

The following represents a summary of the various groups' findings:

- The most likely applications for general agency use were identified as meeting and conference replacements, employee orientation, employee skills training, human resources uses such as job interviews, and testimony to the Legislature.

- The education-centric group specified distance education as a major focus, in addition to parent conferences, staff meetings, streaming video for education, K-12 education, guest speakers, virtual incubator, student collaboration, and grant administration.

- The court-centric group suggested use of videoconferencing for judges meetings, settlement reviews, expert witness and crime lab testimony, arraignment hearings and sentence review.

- The group described as the business services divisions, suggested license board meetings, discipline hearing of licensees, training of building inspectors or staff, national group board meetings, and continuing education with out-of-state instructors.

From: dme@nfstc.org
To: <ForensicQA@yahoogroups.com>
Date: 2/24/03 4:54PM
Subject: RE: [ForensicQA] video testimony

Kentucky State Police has a studio in their Frankfort lab - not sure about their other labs. I also am not sure if they are for all facets of testimony (depositions, criminal, civil, etc.).

David

David M. Epstein, Director of Scientific Operations
National Forensic Science Technology Center
7881 114th Avenue
Largo, FL 33773

727-549-6067, ext. 110
727-549-6070 - Fax

www.nfstc.org

-----Original Message-----
From: kacey_heckman <kheckman@safety.state.nh.us>
[mailto:kheckman@safety.state.nh.us]
Sent: Monday, February 24, 2003 4:29 PM
To: ForensicQA@yahoogroups.com
Subject: [ForensicQA] video testimony

Hi Group:

I would like to know if any of you have video testimony or video depositions in your state? That is, you can remain at the lab and remotely testify, vs traveling to the court. Thanks.

Kacey W. Heckman
NHSP Forensic Laboratory
603 271-3573

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From: carl.anderson@kbi.state.ks.us
To: "'ForensicQA@yahoogroups.com'" <ForensicQA@yahoogroups.com>
Date: 2/24/03 4:36PM
Subject: RE: [ForensicQA] video testimony

Under exceptional circumstances, when all parties agree, video depositions do, very rarely occur.

No video linked testimony. We would like to, but have not been able to get a program off the ground.

Carl Anderson
Kansas Bureau of Investigation
Laboratory QA Manager
620.792.4353 x225

"I think quality control is an oxymoron. True quality needs space to breathe. If quality is built in, then where's the need for control? Why on earth would you want to control quality? It should be allowed to run rampant." - Hal F. Rosenbluth

> -----Original Message-----
> From: kacey_heckman <kheckman@safety.state.nh.us>
> [SMTP:kheckman@safety.state.nh.us]
> Sent: Monday, February 24, 2003 3:29 PM
> To: ForensicQA@yahoogroups.com
> Subject: [ForensicQA] video testimony
>
> Hi Group:
>
> I would like to know if any of you have video testimony or video
> depositions in your state? That is, you can remain at the lab and
> remotely testify, vs traveling to the court. Thanks.
>
> Kacey W. Heckman
> NHSP Forensic Laboratory
> 603 271-3573
>
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>
> <http://us.adserver.yahoo.com/l?M=245454.2994396.4323964.2848452/D=egroupm
> ail/S=:HM/A=1457554/rand=775625036>
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> <http://groups.yahoo.com/group/ForensicQA>
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> The opinions expressed in this forum are those of the individual

From: kchiarod@yahoo.com
To: <kheckman@safety.state.nh.us>
Date: 2/25/03 9:07AM
Subject: Re: [ForensicQA] video testimony

Kacey,

I know the INS does this and they testify overseas.
They mostly do documents (passports/travel docs).
KC

--- "kacey_heckman <kheckman@safety.state.nh.us>"
<kheckman@safety.state.nh.us> wrote:
> Hi Group:
>
> I would like to know if any of you have video
> testimony or video
> depositions in your state? That is, you can remain
> at the lab and
> remotely testify, vs traveling to the court.
> Thanks.
>
> Kacey W. Heckman
> NHSP Forensic Laboratory
> 603 271-3573
>
>

Do you Yahoo!?
Yahoo! Tax Center - forms, calculators, tips, more
http://taxes.yahoo.com/

From: grantt@mshp.state.mo.us
To: <ForensicQA@yahoogroups.com>
Date: 2/25/03 9:38AM
Subject: Re: [ForensicQA] video testimony

Many years ago we had a video testimony in a high profile homicide case. Our criminalist was scheduled to be on her honeymoon during the time of the trial and the PA worked with her. It would be wonderful if video testimony was done, but in my state we do it the old fashioned way - hurry up and wait at the courthouse or attorney's office!
Tom Grant
Missouri State Highway Patrol Crime Laboratory
Quality Assurance Coordinator
573-526-6134 ext. 219

"kacey_heckman <kheckman@safety.state.nh.us>" <kheckman
To: ForensicQA@yahoogroups.com
cc:
Subject: [ForensicQA] video testimony

02/24/03 03:29 PM
Please respond to ForensicQA

Hi Group:

I would like to know if any of you have video testimony or video depositions in your state? That is, you can remain at the lab and remotely testify, vs traveling to the court. Thanks.

Kacey W. Heckman
NHSP Forensic Laboratory
603 271-3573

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From: vis@pd.sannet.gov
To: "'ForensicQA@yahoogroups.com'" <ForensicQA@yahoogroups.com>
Date: 2/25/03 10:01AM
Subject: RE: [ForensicQA] video testimony

Not here in San Diego.

-----Original Message-----
From: kacey_heckman <kheckman@safety.state.nh.us>
[mailto:kheckman@safety.state.nh.us]
Sent: Monday, February 24, 2003 01:29 PM
To: ForensicQA@yahoogroups.com
Subject: [ForensicQA] video testimony

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Kacey W. Heckman
NHSP Forensic Laboratory
603 271-3573

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****

From: vhopkins@nsp.state.ne.us
To: <ForensicQA@yahoogroups.com>
Date: 2/25/03 10:07AM
Subject: RE: [ForensicQA] video testimony

We wish!!! No such luck in Nebraska!!

Vicki Hopkins
Quality Assurance Manager
Nebraska State Patrol Crime Laboratory
1233 Arapahoe St.
Lincoln, NE 68502

(402)471-8983
(402)471-8954 Fax

"Simms, John" <vis@pd.sannet.gov>
02/25/2003 08:57 AM
Please respond to ForensicQA

To: "'ForensicQA@yahoogroups.com'" <ForensicQA@yahoogroups.com>
cc:
Subject: RE: [ForensicQA] video testimony

Not here in San Diego.

-----Original Message-----
From: kacey_heckman <kheckman@safety.state.nh.us>
[mailto:kheckman@safety.state.nh.us]
Sent: Monday, February 24, 2003 01:29 PM
To: ForensicQA@yahoogroups.com
Subject: [ForensicQA] video testimony

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Kacey W. Heckman
NHSP Forensic Laboratory
603 271-3573

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From: reeve@dps.state.ia.us
To: "'ForensicQA@yahoogroups.com'" <ForensicQA@yahoogroups.com>
Date: 2/25/03 10:29AM
Subject: RE: [ForensicQA] video testimony

We're doing some video depos, but not a great many as yet. I'm not aware of any video court testimony occurrences. We have some prosecutors that are pushing hard for it, and have taken the lead in implementing it. Some of our Criminalists are leery of using video in jury trials because of the lack of non-verbal feedback from the jury.
Bruce P. Reeve
Iowa DCI Criminalistics Lab
515/281-3666

-----Original Message-----
From: Simms, John [mailto:vis@pd.sannet.gov]
Sent: Tuesday, February 25, 2003 8:57 AM
To: 'ForensicQA@yahoogroups.com'
Subject: RE: [ForensicQA] video testimony

Not here in San Diego.

-----Original Message-----
From: kacey_heckman <kheckman@safety.state.nh.us>
[mailto:kheckman@safety.state.nh.us]
Sent: Monday, February 24, 2003 01:29 PM
To: ForensicQA@yahoogroups.com
Subject: [ForensicQA] video testimony

Hi Group:

I would like to know if any of you have video testimony or video depositions in your state? That is, you can remain at the lab and remotely testify, vs traveling to the court. Thanks.

Kacey W. Heckman
NHSP Forensic Laboratory
603 271-3573

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The Forensic QA webpage on Yahoo can be accessed at:
http://groups.yahoo.com/group/ForensicQA
<http://groups.yahoo.com/group/ForensicQA>

The opinions expressed in this forum are those of the individual respondents and do not necessarily represent the policy of their respective agencies, companies or departments.

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Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Judiciary

to which was referred Senate Bill 120

AN ACT relative to testimony by the state personnel in criminal cases

VOTE: 5-0

2003-0975s

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Robert Clegg, Jr.
For the Committee

SB120 Docket

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Bill Title: (New Title) relative to testimony by video teleconference in criminal cases.

Date	Body	Description
1/30/2003	S	Introduced and Ref. to Judiciary; SJ 3, Pg.36
2/7/2003	S	Hearing; === CANCELLED === February 18, 2003, Room 105-A, SH, 11:15 a.m.; SC9
2/18/2003	S	Hearing; === RESCHEDULED === February 20, 2003, Room 105-A, SH, 4:00 p.m.; SC10A
3/28/2003	S	Committee Report; Ought to Pass with Amendment{0975}, (New Title), [04/03/03]; SC16, Pg.26
4/3/2003	S	Committee Amendment{0975},(New Title), AA, VV; SJ 11, Pg.256-257
4/3/2003	S	Ought to Pass with Amendment{0975}, (New Title), MA, VV; OT3rdg; SJ 11, Pg.257
4/3/2003	S	Passed by 3rd Reading Resolution; SJ 11, Pg.265
4/8/2003	H	03/26/2003 Introduced and ref to Crim Just & PSfty; HJ34, p1086
4/8/2003	H	Hearing Apr 22 10:00 RM204,LOB
5/7/2003	H	Subcom Work Session May 13 9:30 RM203,LOB
5/13/2003	H	Subcom Work Session May 20 9:00 RM204,LOB
5/20/2003	H	Maj Report OTP/AM for May 29 (Vote 17-1;CC)
5/21/2003	H	Prop Comm Am{1703}; HC 43, p1382
5/29/2003	H	Passed with Am; HJ 45, p1451 + 1477
6/5/2003	S	Sen. Peterson Non Concur Requests Commitee of Conference, MA, VV; SJ 19, Pg.525
6/5/2003	S	President Appoints; Senators; Peterson, Clegg, Foster; SJ 19, Pg.525
6/5/2003	H	House Acceded to req for Conf Comm, Rep Welch MA VV; HJ 47, p1514
6/5/2003	H	(Spkr appts Reps: Stevens, Nedeau, Tholl & T Robertson)
6/9/2003	S	Committee of Conference Meeting; June 12, 2003, Room 304, LOB, 10:00 a.m.
6/19/2003	H	Conf Comm Report (House Am + New Am{2093}) Filed;
6/24/2003	H	Conf Comm Report Adopted;
6/24/2003	S	Conference Committee Report{2093}, Adopted, VV; SJ 20, Pg.822-823
6/30/2003	S	Enrolled;
6/30/2003	H	Enrolled;

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Docket Abbreviations