

# National Commission on Forensic Science

A Federal Advisory Committee  
for the U.S. Department of Justice



U.S. Department of Commerce

**5<sup>th</sup> Meeting: January 29-30, 2015**

# General Commission Business

by Designated Federal Official **Brette Steele**

## 1. Leadership transitions

- James Cole completed his DOJ service in early January 2015
- Sally Yates has been named the acting Deputy Attorney General and will serve as the DOJ Co-Chair of the Commission
- She will attend tomorrow afternoon from 4-5 p.m. along with Acting NIST Director and NIST Co-Chair Willie May

## 2. Charter renewal

- The existing charter expires April 23, 2015
- DOJ plans to renew charter with revision to include digital evidence

## 3. Membership issues

- Commissioners will be given a chance to opt in/opt out before next meeting
- A new digital evidence member will be added
- Look to replace anyone who opts out

## 4. Commission scope question regarding Pre-Trial Discovery document presented at the last Commission meeting

# Vice Chairs Opening Remarks

## Nelson

- Review of work product process documents
- Review of agenda for this meeting
- Internet access in this room

## John

- Work products at this meeting (4 potentially for a vote)
- Subcommittee report expectations
- Certificates of appreciation
- Future meeting dates for the Commission (2<sup>nd</sup> term)

# Final Draft Documents Up for Potential Vote at this Meeting (January 30, 2015)

Through 30 day public review (and revisions made):

1. Universal Accreditation (policy)
2. Accreditation of Medical Examiner and Coroner Offices (policy)
3. Certification of Medicolegal Death Investigators (directive)
4. Scientific Literature in Support of Forensic Science and Practice (views)

# New Documents Up for Review at this Meeting (January 30, 2015)

- **Inconsistent Terminology** (views document)
  - From Reporting & Testimony Subcommittee
- “It is the view of the NCFS that the forensic science community should endeavor to make terminology more consistent within a particular discipline and across disciplines... This document summarizes problems that result from the inconsistent use of terminology...”
- Only 1 public comment was received from a Commissioner

# Planned Future Commission Meeting Dates (Start of the 2<sup>nd</sup> Term)

- *Meeting 6*: April 30-May 1, 2015 Th/F
- *Meeting 7*: August 10-11, 2015 M/T
- *Meeting 8*: December 7-8, 2015 M/T
- *Meeting 9*: March 21-22, 2016 M/T
- *Meeting 10*: June 20-21, 2016 M/T

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# Agenda Adjustments for Today

- Commission Co-Chairs, Acting DAG Sally Yates and Acting NIST Director Willie May, will be here at 2pm today
- New agenda has been provided to those in the room with adjustments for this afternoon

# Members Here & Establishing a Quorum

## **31 voting members and 8 ex-officio members**

### 8 Ex-Officio Members

1. Judge Jed Rakoff
2. Kathryn Turman
3. Fran Schrotter
4. Mark Weiss
5. Patricia Manzolillo
6. Gerry LaPorte
7. Marilyn Huestis
8. David Honey (proxy here)

### Voting Members Not Here

- Andrea Ferreira-Gonzalez
- Ryant Washington
  - has stepped down
- Tom Cech (proxy here)
- Vince Di Maio (proxy here)
- Cecelia Crouse (on-line)
- Phil Pulaski (on-line)

<http://www.justice.gov/ncfs/members>

# Article Describing the Commission and OSAC

## The National Commission on Forensic Science and the Organization of Scientific Area Committees

John M. Butler

National Institute of Standards and Technology  
Gaithersburg, Maryland, USA

### Abstract

***18 pages of information***

In early 2014, the U.S. Department of Justice (DOJ) and the National Institute of Standards and Technology (NIST) launched the National Commission on Forensic Science (NCFS) and the Organization of Scientific Area Committees (OSAC) to aid efforts in strengthening forensic science in the United States. NCFS is a two-year renewable federal advisory committee to DOJ with a diverse set of stakeholder perspectives that provide views and policy recommendations to the Attorney General. The NIST-led OSAC effort is being established to provide leadership in developing discipline-specific standards of practice. Ultimately standards and guidelines that populate an OSAC registry will enable accreditation bodies to audit forensic science service providers to these discipline-specific forensic science standards of practice.

This article describes objectives and duties, membership, and first-year activities of the NCFS and the OSAC efforts. Slides presented on this topic October 1, 2014 at the 25<sup>th</sup> International Symposium on Human Identification (ISHI) are available at

<http://www.nist.gov/forensics/upload/JB-NCFS-and-OSAC-ISHI2014.pdf>.

<http://www.nist.gov/forensics/upload/Butler-ISHI-Proceedings2014.pdf>

# Those Voting Today

**20 votes needed for 2/3**

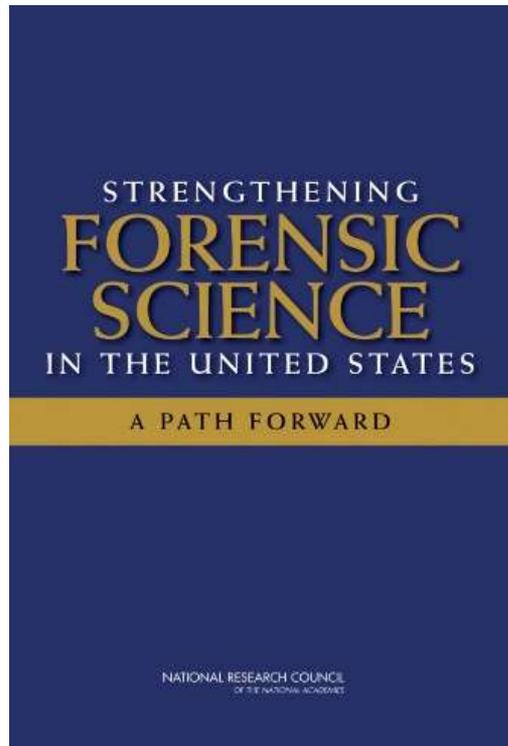
1. Nelson Santos
2. John Butler
3. Greg Czarnopys
4. John Kacavas
5. Marc LeBeau
6. Cecelia Crouse (**on-line**)
7. Dean Gialamas
8. Linda Jackson
9. Jeff Salyards
10. Phil Pulaski (**on-line**)
11. Vince Di Maio (Randy H.)
12. John Fudenberg
13. Ted Hunt
14. Matt Redle
15. Pam King
16. Julia Leighton
17. Judge Hervey
18. Judge McCormack
19. Suzanne Bell
20. Fred Bieber
21. Tom Cech (Ed M.)
22. Bonner Denton
23. Stephen Fienberg
24. Jim Gates
25. Troy Duster
26. Jules Epstein
27. Paul Giannelli
28. Susan Howley
29. Peter Neufeld

If no Cecelia and Phil, then 27 voting and 18 votes = 2/3

# Comment Emailed from Patricia Manzollo

- The term forensic science exists and is widely used, we are not creating something new. As we have demonstrated over the past year, there are many different understandings, misconceptions, and challenges associated with these two words. Because of this I feel it is our responsibility as the NCFS to define “forensic science.” We must take this opportunity, as did the NAS report, to 1) explain how the term is used and applied today, and 2) address the misconceptions, and possible mythical status from the inclusion of “science”. I think the current proposed definition does this by including the practical application of both scientific and technical expertise to specific matters under the law, but, an additional clarifying sentence may be useful.
- We may define other terms but if we do not address forensic science, we are not performing our duty to inform the AG and the public.

# From NRC 2009 Report, p. 38



“The term “forensic science” encompasses a broad range of disciplines, each with its own distinct practices. ... Thus, in this report, **the term “forensic science” is used with regard to a broad array of activities, with the recognition that some of these activities might not have a well-developed research base, are not informed by scientific knowledge, or are not developed within the culture of science.**”

# Wording in a European Union Treaty

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009F0905>

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

COUNCIL FRAMEWORK DECISION 2009/905/JHA

of 30 November 2009

on Accreditation of forensic service providers carrying out laboratory activities

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 30(1)(a) and (c) and Article 34(2)(b) thereof,

- (4) The intensified exchange of information regarding forensic evidence and the increased use of evidence from one Member State in the judicial processes of another, highlights the need to establish common standards for forensic service providers.

**Forensic service providers  
(without “science” in description)**

# Commission Work Products

- The Commission is a Department of Justice Federal Advisory Committee and therefore **only has direct authority to make recommendations to the Attorney General** (who can direct efforts in three DOJ laboratories: FBI, DEA, and ATF)
- Work Product Types: (1) Views, (2) Directives, or (3) Policies

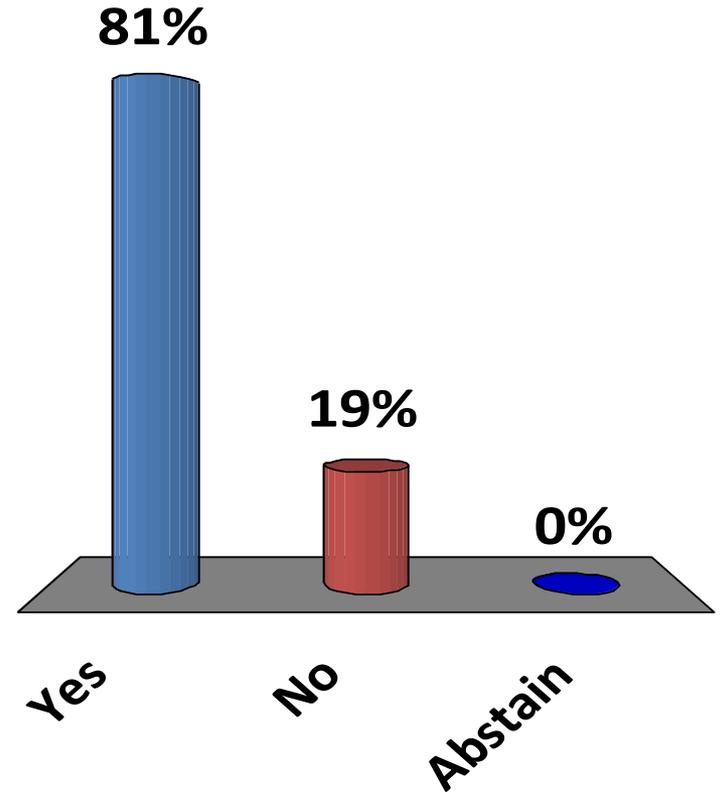
Voting is conducted electronically with a **two-thirds majority required to pass**



Forensic “Science” term

# Use NRC 2009 p. 38-39 language in “forensic science” definition

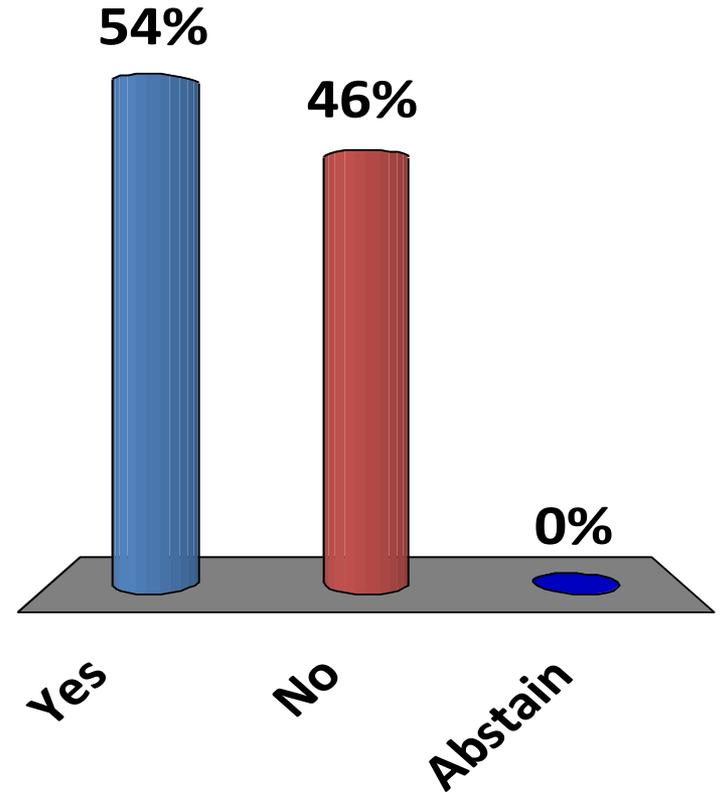
1. Yes
2. No
3. Abstain



# Accreditation

# Is the amendment a substantial change?

1. Yes
2. No
3. Abstain



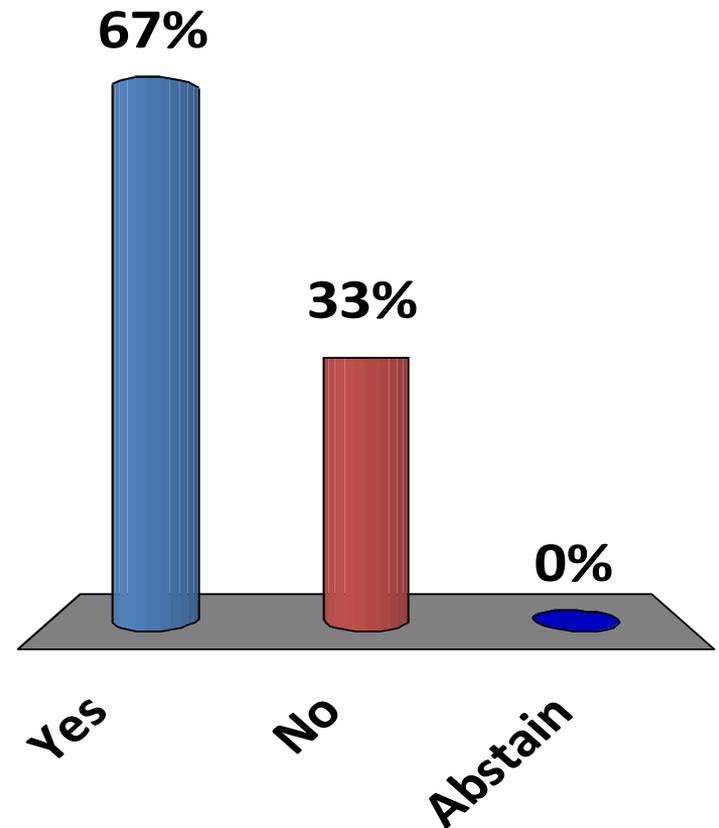
# Acceptance of Universal Accreditation document

It is recommended that all Forensic Science Service Providers (FSSP) become accredited.  
(Original document)

1. Yes
2. No
3. Abstain

**Forensic Science Service Provider  
as defined in the Universal  
Accreditation document**

**Note: Digital evidence is not  
permitted under current charter. A  
future meeting vote can include DE.**



# Review of Vote on Universal Accreditation

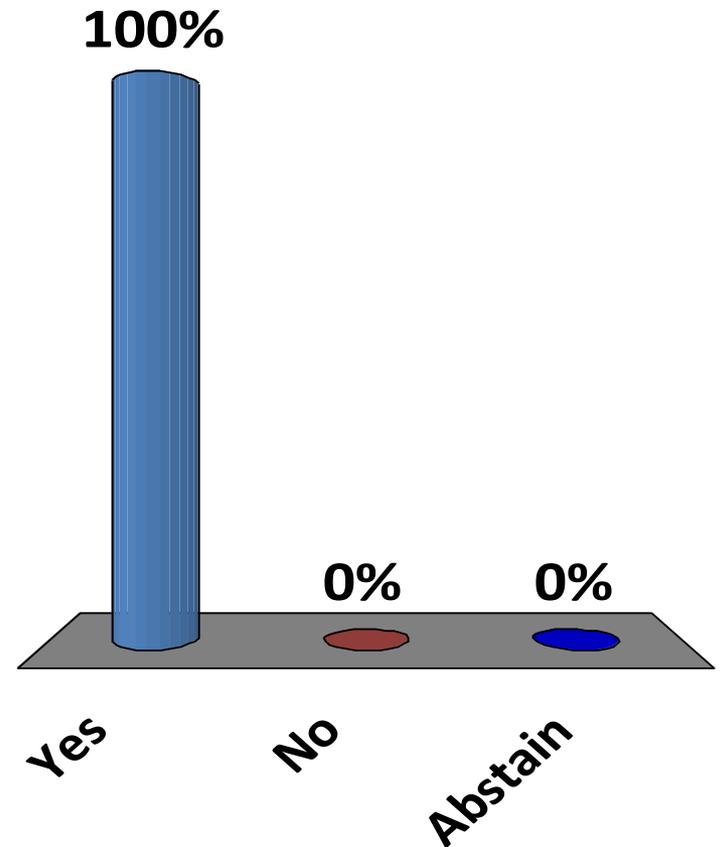
- **27 of 29 possible votes were collected electronically (67%)**
  - Follow-up on additional two votes found one “yes” and one “abstain”
- With 19 “yes” out of 29 possible, this yields 65.5172%, which is less than 66.6% (2/3) as required by Section VII.A. of the Bylaws
  - John B. voted “no” because of 54-to-46% amendment being a substantial concern (suggested need for further subcommittee work on this document)
- This shows that EVERY vote counts!
- Does not pass and needs to go back to subcommittee

**MDI**

# Accreditation of Medicolegal Death Investigation Offices

The National Commission on Forensic Science requests that the Attorney General of the United States approve a policy that recommends that all offices, facilities, or institutions performing government-funded official medicolegal death investigation activities, for medical examiner/coroner system, be accredited by the end of the year 2020. (minor revised language)

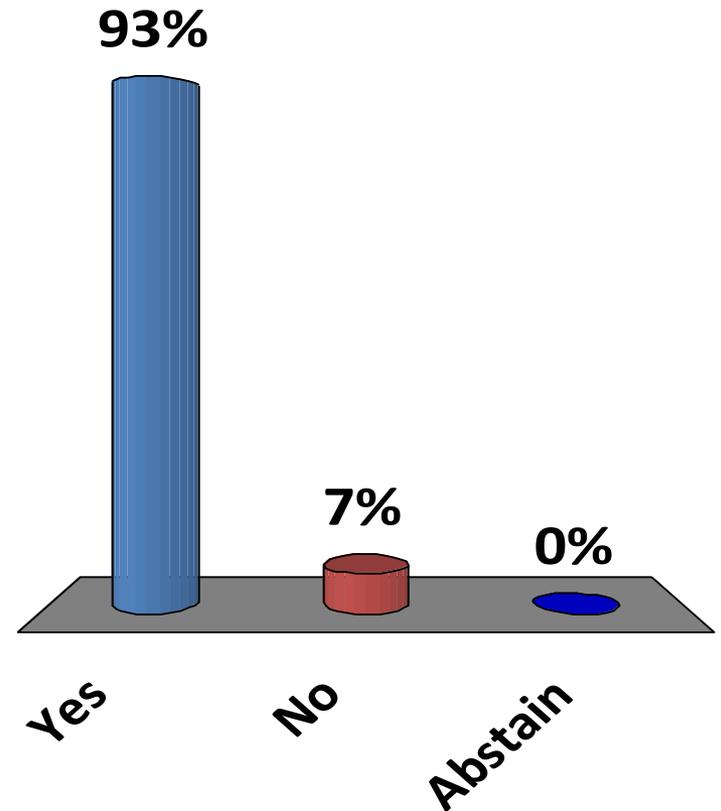
1. Yes
2. No
3. Abstain



# Certification of Medicolegal Death Investigators

The National Commission on Forensic Science requests that the Attorney General of the United States approve a recommendation that directs the Office of Justice Programs to establish a priority to use grant funds to defray the cost of ensuring all medicolegal death investigators (MDI) and Coroners (who are involved in conducting medicolegal death investigations) in the United States obtain professional certification by the end of the year 2020. (minor revised language)

1. Yes
2. No
3. Abstain



# Scientific Inquiry & Research

# Scientific Literature in Support of Forensic Science and Practice (views document)

*Vote to adopt document as posted on NCFS website  
(removal of "it" as described by Ted)*

1. Yes
2. No
3. Abstain

