

# National Commission on Forensic Science

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



**4<sup>th</sup> Meeting: October 28-29, 2014**

# **General Commission Business**

by Designated Federal Official **Brette Steele**

## **1. Charter renewal**

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

## **2. Leadership transitions**

- DOJ continues to support Commission efforts
- The DOJ Co-chair will be named by the Attorney General and Deputy Attorney General

## **3. Status of legislative update to Commission**

- Legislative staff unavailable to brief at this time
- Legislative staff open to meetings with stakeholders

## **4. Future dates for meetings past April 2015**

- Additional meeting dates will be set before the end of the year

# Vice Chairs Opening Remarks

- Review of Commissioners' roles and responsibilities - Nelson
- Review of Approved Work Products - John
- Current Work Products - Nelson/John
- Subcommittee reports - Nelson
- Plan for document discussion - John/Nelson
- Additional Points - Nelson/John
- Agenda review - John
- Presentations Made - Nelson/John

# MEMBERSHIP VOTE (August 27)

Directive Recommendation: **Passed (93%)**

**The Attorney General should direct the Bureau of Justice Statistics to create a proposal for the development of a nationally representative survey to determine forensic capabilities for those who write reports and offer testimony within federal, state, and local law enforcement agencies and for medical examiner and coroner offices. The survey instrument should be developed in collaboration with relevant stakeholder organizations by the next Commission meeting.**

# Follow-up on Approved Directive from Last Meeting

- Passed by Commission on August 27
- Approved by Attorney General on September 8
- Bureau of Justice Statistics will provide their proposal for a survey of law enforcement forensic units tomorrow afternoon
- ASCLD survey provided in early September
  - We are grateful for their efforts which provide a helpful starting point for a deeper investigation

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# Website Postings of Draft Work Products

- As discussed in the revised bylaws reviewed during the last meeting, subcommittee work products are made available to Commissioners and to the general public at least 15 days before the next meeting
- A NCFS work products page was created:
  - <http://www.justice.gov/ncfs/work-products>
- Individuals wishing to submit written public comment regarding draft work products should do so by going to [www.regulations.gov](http://www.regulations.gov) and entering Docket No. DOJ-LA-2014-0006.
- Forensic associations have emailed membership to review the work products and make comments
  - A GovDelivery system is being established to get the word out

# Comments Received on Initial NCFS Subcommittee Work Products

*Posted October 14, 2014 and closed October 27, 2014 11:59PM*

**Subcommittees decided on format, length, etc.**

Document	Length	# Comments Received
Universal Accreditation (policy)	4 pages	<b>21</b>
Scientific Literature (views)	4 pages	<b>9</b>
Pretrial Discovery (policies & directives)	28 pages	<b>37</b>
Expert Testimony (policies & directives)	27 pages	<b>40</b>
MDI accreditation & certification (policy)	7 pages	<b>16</b>
Definitions (views)	2 pages	<b>15</b>
		<b>138 comments</b>

# October 24, 2014 Comment Received on [www.regulations.gov](http://www.regulations.gov)

- **The public comment period for the documents under consideration appears to have been unacceptably short.** Certain members of the forensic science commission repeatedly call for more transparency yet the public, including those professionals who may be impacted by the content of the documents, were only given a few days to review and formulate comments. **If these critical issues surrounding forensic science are as important as we say they are, then a minimum of 30 days to review and comment is appropriate.**
- In the interest of transparency, the Work Product website should prominently display the date that each document was posted. Moreover, the documents themselves should prominently display both the date upon which the document was revised, and the date it was posted for public comment.

# Subcommittee Work Product Review

- Subcommittee co-chairs will provide an update on their subcommittee activities since the last meeting and discuss the work product to be presented to the full Commission; public comments received prior to the Commission meeting will be addressed
- During full Commission deliberations, the Vice-Chairs will facilitate discussion and call for a vote (if work product is deemed ready)
  - Accreditation: Nelson
  - Scientific Inquiry: John
  - Reporting and Testimony (two documents): John
  - Medicolegal Death Investigation: John
  - Interim Solutions: Nelson

# Review Plan for Document Review

- Guidance was given to subcommittee co-chairs (Sept 23 teleconference)
- Subcommittee work products that have a consensus (majority) view will be provided to Commission staff for posting on NCFS website
- Public comments received prior to the meeting will be provided to the subcommittee co-chairs
- Subcommittee co-chairs or working group leader will present draft work product to the Commission
- **Vice-Chairs will lead full Commission deliberation**
  - If deemed appropriate, a vote will be taken (if passed, then finalized)
  - If more input is needed or vote fails, then subcommittee work continues
- **An additional 15 days of public comment (including Commissioner feedback) can be collected** prior to the subcommittee revising the work product and presenting it to the Commission at the following meeting
- **In most cases, documents will be revised based on input received and be presented a second time to the Commission before a vote is taken**

# Subcommittee Report Expectations

- Subcommittee co-chairs and/task group leads to discuss
  - (1) membership,
  - (2) activities since last NCFS meeting (e.g., 2 teleconferences and 1 in-person meeting),
  - (3) discuss top priorities & direction for subcommittee,
  - (4) discuss work products provided for review and any public comment received
- Vice-chairs to facilitate discussion of work products and priorities with full Commission

# Additional Points

- Criticism without potential alternative solutions is not helpful to the process...
- We would like a more uniform look to subcommittee work products in the future

# Agenda Review and Modifications

- **Most of this meeting will involve discussion of subcommittee work products (six to be reviewed)**
- The Human Factors subcommittee, which was initiated at the last meeting, will provide an update for their formation efforts, membership, and priority plans
- BJS needed to move until tomorrow afternoon so Tania Simoncelli agreed to switch places and will talk next during today's working lunch
- Mark Stolorow will provide an update on NIST efforts with OSAC tomorrow morning

# Agenda Review (cont.)

- During meeting wrap-up tomorrow afternoon, subcommittee co-chairs will provide a brief review of their accomplishments and upcoming plans to the NIST co-chair Willie May and DOJ vice-chair Nelson Santos (because DAG James Coles could not attend)
- The meeting will conclude with up to 30 minutes of public comment
  - See DFO Brette Steele if you are interested in making a 3 minute statement to the Commission

# NCFS Update Talks Given Since the August 2014 Meeting

- Nelson
  - ANZFSS
  - AFQAM
  - IACP
  - AAAS (upcoming)
- John:
  - Sept 10 (GenomeID Forum, Greenville, NC)
  - October 1 (International Symposium on Human Identification, Phoenix, AZ)
  - October 14 (World Forensic Festival, Seoul, Korea)
  - ***Two articles being written on NCFS and OSAC***