

DEPARTMENT OF JUSTICE

Notice of Public Comment Period on

Advancing Forensic Science

Docket No. OLP 160

AGENCY: Department of Justice.

ACTION: Request for public comment.

NOTE: This is an advance copy of a notice submitted to the Federal Register. This document contains unofficial text. The official text will be published in a forthcoming edition of the Federal Register and posted on www.regulations.gov.

SUMMARY: It is the Department's mission to ensure public safety and provide federal leadership in preventing and controlling crime. Advancing the practice of forensic science is an important part of that effort. The more effective a forensic system we have, the better equipped we are to solve crimes, more swiftly absolving the innocent and bringing the guilty to justice. The second term of the National Commission on Forensic Science (NCFS) is set to expire on April 23, 2017. As part of the Department's continued efforts to advance the practice of forensic science following NCFS's expiration, the Department is seeking comment on how the Department should move forward to (1) evaluate and improve the underlying science of forensic evidence; (2) improve the operational management systems of forensic science service providers; and (3) improve the understanding of forensic science by legal practitioners.

DATES: Written public comment regarding the issue for comment should be submitted through www.regulations.gov before June 9, 2017.

FOR FURTHER INFORMATION CONTACT: The Office of Legal Policy, 950 Pennsylvania Avenue, NW, Washington, DC 20530, by phone at 202-514-4601 or via email at Forensics.OLP@usdoj.gov.

SUPPLEMENTARY INFORMATION: In February 2013, the U.S. Department of Justice and the National Institute of Standards and Technology (NIST) announced a partnership that included the formation of the National Commission on Forensic Science (NCFS). The NCFS is one of several federal initiatives relating to forensic science that was created following the 2009 report by the National Academy of Sciences National Research Council on “Strengthening Forensic Science in the United States: A Path Forward.” NCFS was established under the Federal Advisory Committee Act to provide advice and recommendations to the Attorney General on: (1) strengthening the reliability and usefulness of the forensic sciences (including medicolegal death investigation); (2) enhancing quality assurance and quality control in forensic science laboratories and units; (3) identifying and recommending scientific guidance and protocols for evidence seizure, testing, analysis, and reporting by forensic science laboratories and units; and (4) identifying and assessing other needs of the forensic science communities to strengthen their disciplines and meet the increasing demands generated by the criminal and civil justice systems at all levels of government.

The NCFS charter identifies six goals: (1) to recommend priorities for standards development to the Attorney General; (2) to review and recommend guidance identified or developed by subject-matter experts; (3) to develop proposed guidance concerning the intersection of forensic science and the courtroom; (4) to develop policy recommendations, including a uniform code of professional responsibility and minimum requirements for training, accreditation, and certification; (5) to consider the recommendations of the National Science and

Technology Council's Subcommittee on Forensic Science; and (6) to identify and assess the current and future needs of the forensic sciences to strengthen their disciplines and meet growing demands. The NCFS's supporting documents, including current charter, bylaws, and work product development guidance, are available for review at <https://www.justice.gov/ncfs> and <https://www.justice.gov/ncfs/work-products>.

Federal advisory committees operate on two-year renewable terms. Term 1 for NCFS began on April 23, 2013, when the original charter was filed, and concluded on April 23, 2015. NCFS was renewed for Term 2, which expires on April 23, 2017. Over the last 3 years (as of April 9, 2017), NCFS developed 43 work products, including 20 recommendations to the Attorney General, to support these goals. The NCFS has met its initial mandate, and in light of the upcoming expiration of its charter, the Department is now considering appropriate next steps.

Issue for Comment – Commenters are requested to identify proposals to: (1) improve the underlying science and validity of forensic evidence; (2) improve the operational management systems of forensic science service providers; and (3) improve the understanding of forensic science by legal practitioners.

In formulating a proposal, commenters may wish to consider the following questions:

- (A) What are the biggest needs in forensic science inside the Department and at the federal, state, local, and tribal level?
- (B) What is required to improve forensic science practices at the federal, state, local, and tribal levels?
- (C) What is needed to improve capacity at federal, state, local, and tribal levels?
- (D) What are the barriers to improving capacity and what resources are needed to overcome those barriers?
- (E) What are the specific issues related to digital forensic evidence analysis and how can the Department address those needs?

- (F) How should the Department, or any Department entity, coordinate with the Organization of Scientific Area Committees?
- (G) What resources and relationships can the Department draw on to ensure thoughtful and representative input?

Proposals may include some combination of a Federal Advisory Committee, a new office at the Department, an inter-agency working group, regularly scheduled stakeholder meetings, etc. If the commenter believes a Federal Advisory Committee structure is appropriate, commenters are encouraged to address structural issues such as size, membership, work product development process, reporting structure (i.e., to whom recommendations are provided), opportunity for public comment, and opportunity for robust debate among members.

POSTING OF PUBLIC COMMENTS: To ensure proper handling of comments, please reference “**Docket No. OLP 160**” on all electronic and written correspondence. The Department encourages all comments be submitted electronically through www.regulations.gov. Paper comments that duplicate the electronic submission are not necessary as all comments submitted to www.regulations.gov will be posted for public review and are part of the official docket record.

In accordance with the Federal Records Act, please note that all comments received are considered part of the public record, and shall be made available for public inspection online at www.regulations.gov. The comments to be posted may include personally identifiable information (such as your name, address, etc.) and confidential business information voluntarily submitted by the commenter.

The Department will post all comments received on www.regulations.gov without making any changes to the comments or redacting any information, including any personally identifiable information provided. It is the responsibility of the commenter to safeguard personally identifiable information. You are not required to submit personally identifying information in order to

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comment and the Department recommends that commenters not include personally identifiable information such as Social Security Numbers, personal addresses, telephone numbers, and email addresses that they do not want made public in their comments as such submitted information will be available to the public via www.regulations.gov. Comments may be provided anonymously, but those commenters who do share contact information are requested to include brief background information regarding commenter subject-matter experience and expertise. Comments submitted through www.regulations.gov will not include the email address of the commenter unless the commenter chooses to include that information as part of his or her comment.