

# OFFICE OF LEGAL POLICY PRESENTATION TO THE NATIONAL COMMISSION ON FORENSIC SCIENCE



Office of Legal Policy  
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# Office of Legal Policy

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# Overview

- The Department has undertaken unprecedented efforts to examine and strengthen forensic science and its use in the courtroom.
  - Committed to improving the science so that evidence collected from a crime scene can be compared to a known subject or item with increasingly sensitive and precise means.
  - Committed to ensuring our use of forensic science in the courtroom is supported by the available research, data, and science.



# Update on Forensic Science Projects

- NCFS Recommendations
- Forensic Science Discipline Review
- Uniform Language for Testimony and Reports



# NCFS Recommendations – January 2017

- By the start of this meeting, the NCFS had passed 20 recommendations to the Attorney General
  - Department committed to responding to each NCFS recommendation within two meetings from the date of passage (when possible) and we have met this goal.
- We have adopted many of the recommendations including the critically important recommendation on universal accreditation.
- We announced responses to recommendations on National Disaster Call Center and Discovery today



# Discovery Recommendation

- Department agrees that the need for pretrial discovery of forensic evidence in criminal cases is critical.
  - Spurred by NCFS discussions, Department examined its own policies
- This resulted in guidance as to how prosecutors can provide comprehensive discovery in criminal cases that involve forensic science evidence
  - This guidance advances the shared goal of broad pretrial discovery
- This is new guidance (January 2017) and OLP has been directed to review implementation to ensure it has been effective



# NCFS Recommendations – April 2017

- NCFS passed four recommendations in September 2016 and which are scheduled to receive responses at the April 2017 meeting
  - Case Reports, NOMDI, Proficiency Testing, Technical Merit
- Components have already begun reviewing those recommendations and the next Administration will have the opportunity to consider those recommendations



# Forensic Science Discipline Review

## Purpose

- FSDR is being taken to ensure past testimony stayed within supportable research and data
  - Transparent and coordinated effort to work with stakeholders (including NCFS) to develop methodology





## FSDR Process

- Framework introduction (03/21/2016)
- Draft methodology development (03/2016-06/2016)
- Draft methodology presentation with NCFS (06/20/2016)
- Draft methodology comment period (06/2016)
- Statistician roundtable (07/2016)
- Revised methodology review with NCFS (09/2016)
- Begin FSDR implementation (01/2017-02/2016)



# Implementation – Statement of Work

- Department is developing a SOW
- Department plans to issue a draft SOW and an RFI in the first few months of 2017
  - Response to RFI will inform the SOW and the RFP process
  - This is similar to the process utilized by FBI lab in their Root Cause Analysis RFP
- Final SOW and RFP to be issued later in 2017



# Implementation - Project Director

- Department is in the process of approving the plan to fill the project director position
- We will distribute the posting widely once it is approved and encourage you to share it with interested potential applicants



# Uniform Language for Testimony and Reports Purpose

- ULTRs are being developed to help ensure that Department forensic experts testify consistent with available science, research, and data, and do not exaggerate statements of relationship.
  - Embody the first agency-wide effort *ever* to establish standards for testimony of forensic experts.



# ULTR Development Process

- 1<sup>st</sup> and 2<sup>nd</sup> round of ULTRs published for comment (Summer 2016)
  - 173 comments received
- Department working group reviewed comments and developed a revised ULTR format (07/2016-08/2016)
- OLP presented the ULTR 2.0 to NCFS for discussion (09/2016)
- ULTR Issue for Comment to be published (01/2017-02/2017)
- ULTR Roundtable (planned for 02/2017 – 03/2017)
- Publish ULTR 2.0 for Comment (Spring 2017)



# ULTR Issue for Comment

- Commenters will be invited to provide proposals as to how they would draft guidance for use by forensic examiners in providing testimony.
  - To maximize ability comparability, commenters will be requested to pick from: firearms analysis, general chemistry, geology, glass, latent prints, toxicology.



# ULTR Roundtable

- Department will hold a roundtable in late February or March (pending final approval)
- Similar to issue for comment but this is a smaller meeting where the Department plans to solicit proposals from specific stakeholders including:
  - Forensic scientists
  - Statisticians
  - Cognitive scientists
  - Non-DOJ legal perspectives
- A meeting summary would be shared with the NCFS



# ULTR Next Steps

- We look forward to providing an update to NCFS in April
- Expect to publish a revised ULTR 2.0 in Spring 2017 informed by NCFS, public comment, and Roundtable





# CONCLUSION AND QUESTIONS

