

NATIONAL COMMISSION ON FORENSIC SCIENCE

Discussion of Commission Priorities



March 21-22, 2016
Office of Justice Programs
Washington, D.C.



Objectives

- Review framework from December.
- Review priorities submitted by subcommittees.
- Propose a path forward and discuss.

Framework

**Vision: For all forensic evidence
to support the equal and
impartial application of justice**

**Goal 1: Improve
the Underlying
Science and
Validity of
Forensic Evidence
and Methods**

**Goal 2: Improve
Operational and
Management
Systems of FSSP
and FSMP**

**Goal 3: Improve
Clarity and
Understanding of
Forensic Evidence**

Accreditation and Proficiency Testing Priorities

- Universal Accreditation – with a review of impact on digital evidence
- Accreditation Programs – Opportunities for improvements
- Proficiency Testing – Opportunities for program improvements
- Certification – Critical but may be too complicated to comprehensively address in the limited time left

Human Factors Priorities

- The completion of and follow-up on lab survey
- Internal proficiency: Human performance
- Domain relevance and medico-legal investigations

(Human Bias and Performance Management)

Reporting and Testimony Priorities

- Report content
- Statistical statements of relevance of evidence and limitations on conclusions
- Defense access to expert services
- Evidence preservation
- Testimony relating to recent research (with Human Factors)

Scientific Inquiry and Research Priorities

- Validation of scientific techniques and methods used in forensic science

Training on Science and Law Priorities

- Conduct a survey of judges post-NAS report on evidentiary standards and application. Create curriculum.
- Present an abstract seeking to train on collection, preservation, and storage of evidence

Medicolegal Death Investigation Priorities

- Model Law Project
- National Call Center
- Medicolegal independence

Interim Solutions Priorities

- No priorities identified
- Code of ethics enforcement?
- Anticipate subcommittee sunset

Priorities

- Foundational - underlying science, validation, research, etc. GOAL 1
- Operational - systems within a laboratory to include proficiency testing, methods, management systems, certification, etc. GOAL 2
- Application – reporting, testimony, transparency, clarity, understanding, etc. GOAL 3

Summary of 13 NAS Recommendations

- 1 Create an independent federal entity called the National Institute of Forensic Science (NIFS)
- 2 Establish standard terminology to be used in reporting on and testifying about the results of forensic science investigations and establish model laboratory reports with minimum information specified
Research (and publish in respected scientific journals) the validity of forensic methods, quantify limits of reliability when forensic evidence conditions vary, develop measures of uncertainty in the conclusions of forensic analyses, and automate techniques
- 3 Remove public forensic laboratories from law enforcement or prosecutor's administrative control
- 4 Research human observer bias and error in forensic examinations and develop standard operating procedures to minimize potential bias and error
- 5 Work with the National Institute of Standards and Technology (NIST) and partners to develop tools for advancing measurement, validation, reliability, information sharing, and proficiency testing in forensic science and to establish protocols for forensic examinations, methods, and practices
- 6 Mandate accreditation for all laboratories and facilities (public or private) and mandate individual certification of forensic science professionals
- 7 Establish routine quality assurance and quality control procedures to ensure the accuracy of forensic analyses and the work of forensic practitioners
- 8 Establish a national code of ethics for all forensic science disciplines that can be enforced through certification
- 9 Improve graduate education programs with attractive scholarship and fellowship offerings and establish continuing legal education programs for law students, practitioners, and judges
- 10 Improve death investigations through establishing a nationwide medical examiner system with all medicolegal autopsies being performed or supervised by a board certified forensic pathologist
- 11 Work to achieve nationwide fingerprint data interoperability from Automated Fingerprint Identification Systems (AFIS) and work to improve accuracy of computer algorithms used
- 12 Coordinate local forensic science efforts related to homeland security with the Centers for Disease Control and Prevention and the FBI through planning and conducting preparedness exercises
- 13

Priorities Discussion

Unaddressed NAS Recommendations	Subcommittee Identified Priorities	Overlapping Areas
Testimonial Standards (2)	Statistical statements/limitations	Statistical statements/limitations
Statistical statements/limitations (2-3)	Report content	Report content
Report Content (2)	Scientific validity of t and m	Scientific validity of t and m
Scientific validity of techniques and methods (3)	Human bias research/management (Lab Survey and Domain Relevance)	Human bias research/management
Human bias research/management (5)	Proficiency testing and Internal proficiency	Proficiency testing
Documentary Standards (6) (OSAC) * Includes Proficiency Testing	Certification? Code of ethics: Enforcement (9)?	Certification: COE Enforcement
Certification (7)- Code of ethics: Enforcement (9)	Evidence preservation (2 sc's)	
Quality Assurance (8)		
MDI – establish nationwide ME offices (11)	Oversight of accreditation programs DE Accreditation	
Enhance Graduate Programs	Survey of judges post-NAS report on evidentiary standards and application.	
	Defense access to experts	
	Model MDI Law/Call Center	

Goal 1: Improve Underlying Science and Validity of Forensic Evidence

- Work Products (**completed** or introduced):
 1. **Scientific Literature in Support of Forensic Science and Practice**
 2. *Evaluating Scientific Literature (vote meeting 9)*
 3. *Translation of Research into Practice (vote meeting 9)*
 4. *Validity of Techniques and Methods (intro meeting 9)*
- Gaps/needs?: Validity of techniques and methods, targeted research (enhance automation), testimonial standards

Goal 2: Improve Operational and Management Systems

- Work Products* (**completed** or introduced):
 1. **Universal Accreditation**
 2. **AFIS Interoperability**
 3. **Root Cause Analysis**
 4. **MDI Certification**
 5. **MDI Accreditation**
 6. **MDI Electronic Networking**
 7. **Increasing Number of Pathologist**
 8. **Task Relevant Information**
 9. *Critical Steps to Accreditation (vote meeting 9)*
 10. *Proficiency Testing (vote meeting 9)*
 11. *Code of Ethics (vote meeting 9)*
 12. *DE Accreditation (intro meeting 9)*

Gaps/needs?: Human bias research/management, certification, code of ethics enforcement, proficiency testing....

Goal 3: Improve Clarity and Understanding of Forensic Evidence

- Work Products* (**completed** or *introduced*):
 1. **Inconsistent Terminology**
 2. **Pre-Trial Discovery of Forensic Materials**
 3. **Report Content**
 4. **National Forensic Science Curriculum**
 5. *Pre – Trial Discovery recommendation (intro meeting 9)*
 6. *Judicial Vouching (intro meeting 9)*
 7. *Transparency of Quality Documents (vote meeting 9)*
 8. *Notice and Demand Statutes (intro meeting 9)*
 9. *Reasonable Scientific Certainty (vote meeting 9)*

Gaps/needs?: statistical statements/limitations, report content, testimonial standards, legal training...

Considerations

- Possibly four more meetings left
- New Administration in January 2017
- Meeting 13 is April 10-11, 2017
- AG acts on recommendation within 2 meetings after adoption

AS A RESULT...

Ideally recommendations should be adopted by the Commission by Meeting 11, which means they need to be introduced by next meeting. Views documents should be introduced no later than Meeting 12

Priorities Proposal

- Focus on the overlapping priorities that were highlighted by NAS Report, identified by a subcommittee and will meet goals

Priorities
Statistical statements/limitations
Report content
Scientific validity of disciplines
Human bias and performance management
Proficiency testing (OSAC?)
Certification: COE Enforce
Testimonial Standards
MDI Priorities

Priorities Proposal

- Reduce number of subcommittees to six and redistribute Commissioner members across remaining subcommittees
 - Sunset Interim Solutions and Training
 - Create new subcommittee for Certification?
- Subcommittees would focus their efforts to consider and address the Commission recommendations by September 2016 and views by January 2017
- At the same time, the Department will develop a forensic science discipline review (FSDR) methodology which will address testimonial standards and bring it to the full Commission for review in June.
- If time permits or NCFS charter is renewed, remaining topics can be addressed.

Proposed Assignment of Priorities

Priority	Lead
Statistical statements/limitations	Reporting and Testimony
Report content	Reporting and Testimony
Scientific validity of disciplines	Scientific Inquiry and Research
Human bias and performance management	Human Factors
Proficiency testing	Accreditation
Certification: COE	New Subcommittee
MDI Priorities	MDI
FSDR	Full Commission