



NATIONAL COMMISSION ON FORENSIC SCIENCE



Increasing the Number, Retention, and Quality of Board-Certified Forensic Pathologists

Type of Work Product: Adjudication of Public Comments on Draft Document Prepared by the Medicolegal Death Investigation Subcommittee

Public Comment Summary

The NCSF Subcommittee on Medicolegal Death Investigation Subcommittee posted a Views document, “Increasing the Number, Retention, and Quality of Board-Certified Forensic Pathologists.” During the approximately 30-day public comment period, members of the public, including the National Association of Medical Examiners, submitted four comments, and Commissioners submitted two comments. Three public comments and one Commissioner comment addressed a similar topic—the independence of forensic pathologists from law enforcement.

Adjudication Summary

1. Comments from Commissioners

- This document should be a View Statement rather than a Policy Recommendation.
Subcommittee response: *The Subcommittee agreed to this recommendation.*
- The section of the document discussing the independence of forensic pathologists should be a separate proposal and not be incorporated in this document.
Subcommittee response: *The Subcommittee agreed to this recommendation.*

2. Comments from the Public

- Submitted 4/26/15. The submitter complemented the document as a well-written document. There were no criticisms or suggestions.

The next two comments addressed the independence/separation of forensic pathologists from law enforcement.

- Submitted 5/03/2015. The submitter felt that the assertion that there should be separation of Forensic Pathology services from Law Enforcement should not be in this document and that the issue should be addressed separately. There are jurisdictions throughout the United States that do not have this separation but have safeguards to prevent improprieties.

Subcommittee response: *One sentence in the draft document addresses this issue: “The forensic pathologist should be an independent, autonomous, and neutral physician independent of political influence, and law enforcement officials.” The*

Subcommittee decided to retain this sentence. It is the general feeling throughout the forensic community that there be separation of law enforcement from forensic pathology. A separate document will address this issue in the near future.

- Submitted 5/13/15. The submitter felt that there was no problem with law enforcement and forensic pathology being in the same agency. The comment included some discussion regarding homicide and suicide cases compared with other types of medicolegal cases and whether the latter cases belong in medico-legal offices.

Subcommittee response: *No substantive changes were made in response to the comment. A separate document will address the issue of forensic pathologists being independent and autonomous to law enforcement agencies.*

- Submitted 5/15/15. The National Association of Medical Examiners submitted a long and detailed comment addressing several parts of the draft document.

— **Comment: Medicolegal autopsies be performed by ABP-certified forensic pathologists**

“On page 2 under Recommended Implementation Strategy, second bullet point: change to *Enforcing professional standards that require medicolegal autopsies be performed by forensic pathologists certified by the American Board of Pathology.*”

This same change should be made to the second bullet point under the Recommendations on the first page.”

Subcommittee response: *Neither change was made, as this section was moved to the end of the proposal, and it was made clear in a prior section what a forensic pathologist was and that certification was by the American Board of Pathology.*

— **Comment: Add a reference**

“On page 5 at the end of the first paragraph, add a reference to the NAS report Recommendation 11(b) p267. Also on page 5 add the same reference to Recommendation 11(b) after the fourth and fifth paragraphs.”

Subcommittee response: *It was not felt that these references added significantly to the document.*

— **Comment: Clarify that forensic pathology is the practice of medicine**

“The major recommendation from NAME is that this report should use a bulleted format to highlight the recommendations more clearly in an Executive Summary and to clarify that forensic pathology is the practice of medicine, a recognized subspecialty of medicine and separate from crime scene investigation and coroner duties. This might look like the National Commission on Forensic Science requests that the Attorney General of the United States approve policy recommending.”

Subcommittee response: *They decided to accept the recommendation and add this to the first paragraph of the Background section. The addition did not substantively change the document.*

— **Comment: Better exposure to forensic pathology**

“Medical schools and pathology training programs receiving federal funds should be encouraged to assist in the recruitment of forensic pathologists by: (1) in the case of medical schools, providing exposure to forensic pathology, i.e. a minimum of two hours of instruction, during pathology education and offering elective rotations in forensic pathology; and (2) in the case of training programs in anatomical pathology, encouraging a one month rotation in a medicolegal office where forensic autopsies are performed.”

Subcommittee response: *This information was already in the work product.*

— **Comment: Improved quality with autopsy performance by forensic pathologists**

“All municipal, county, state or federal entities that receive federal grant money for their police agencies or crime laboratories require that all forensic autopsies performed under their authority be performed by a forensic pathologist certified by the American Board of Pathology.”

Subcommittee response: *This information was already in the work product.*

— **Comment: Adequate funding of training and improvement of forensic pathologist compensation**

“Loan forgiveness for forensic pathologists in full time practice for ten years since completion of their training in forensic pathology, and forensic pathologist salaries be made competitive with other medical specialties.”

Subcommittee response: *This information was already in the work product.*

— **Comment: Forensic pathologist independence and availability**

“Recognition that forensic pathologists operate as *autonomous and neutral professionals engaging in the practice of medicine*, separate from law enforcement, and that forensic pathologists be equally available for prosecuting (or plaintiff) and defense attorneys in both criminal and civil law cases arising from their official death investigation duties as well as on independent consultations. Forensic pathology is a subspecialty and defined practice of medicine, encompassing public health, judicial and public safety concerns, occupational, consumer and family health risks and population health risks and statistics.

Subcommittee response: *This comment is similar to two of the other public comments and one of the Commissioner’s comments. The information is already in the proposal in part. The Subcommittee anticipates drafting a separate work product to address the need for FPs to be separate from law enforcement; that FPs are autonomous and neutral professionals engaging in the practice of medicine, separate from law enforcement; and that FPs be equally available for prosecuting (or plaintiff) and defense attorneys in both criminal and civil law cases arising from their official death investigation duties as well as on independent consultations.*

— **Comment: Adequate facilities**

“Address the necessity of adequate facilities in which to work, including integration of modern diagnostic technologies such as computed tomography, magnetic resonance imaging, and genetic testing. Although this might be viewed as an issue separate from increasing the number, retention and quality of board certified forensic pathologists, the primitive working conditions of many offices may act as a disincentive to increasing the number of and retaining forensic pathologists.”

Subcommittee response: *This information is already in the work product generally, but some of these points will be retained and addressed in a separate work product relevant to forensic pathologists specifically.*

3. Miscellaneous

Suggestions on minor changes in verbiage, use of different terminology, and arrangement of phrases were made based on the aforementioned suggestions and implemented in the revised draft document. None of these changes impacted the document in any substantive way.