



NATIONAL COMMISSION ON FORENSIC SCIENCE

NIST
National Institute of
Standards and Technology
U.S. Department of Commerce

Directive Recommendation: National Code of Professional Responsibility for Forensic Science and Forensic Medicine Service Providers

Subcommittee
Interim Solutions

Type of Work Product
Directive Recommendation

Recommendation

The US Attorney General should require the forensic science service providers within the Department of Justice to adopt the National Code of Professional Responsibility for Forensic Science and Forensic Medicine Service Providers¹, that the Code be annually reviewed and signed by all forensic science service providers, and that steps be defined to address violations.

The US Attorney General should strongly urge all forensic science and forensic medicine service providers, associated certification and accreditation bodies, and professional societies to adopt the National Code of Professional Responsibility for Forensic Science and Forensic Medicine Service Providers, and for their management systems to develop policies and procedures to enforce the standards embodied in this code

Statement of Issue

The 2009 National Research Council of the National Academies report entitled *Strengthening Forensic Science in the United States: A Path Forward* (“NAS Report”) recommended a national code of ethics for all forensic science disciplines and encouraged professional forensic science societies to incorporate the national code into their own codes of professional responsibility and code of ethics. The NAS Report also recommended exploring mechanisms to enforce serious ethical violations.

In 2010, the Education, Ethics, and Terminology Inter-Agency Working Group (EETIWG) of the National Science and Technology Council’s Subcommittee on Forensic Science developed a National Code of Ethics and Professional Responsibility for the Forensic Sciences (NCEPRFS). Further, the EETIWG recommended that all practitioners “who provide reports and expert opinion testimony with respect to forensic evidence in United States courts of law, adopt the NCEPRFS.” Unfortunately, this recommendation was not acted upon and no NCEPRFS exists today.

¹ A forensic science service provider is defined by the NCFSS as any forensic science agency or forensic science practitioner providing forensic science services. A forensic medicine service provider is any forensic medicine agency or forensic medicine practitioner providing forensic medicine services.

Background

The EETIWG reviewed codes of ethics in use by forensic science organizations. While it noted the lack of a single code of ethics that covered all forensic disciplines, the working group identified four major categories addressed by every code of ethics it reviewed: 1) working within professional competence, 2) providing clear and objective testimony, 3) avoiding conflicts of interest, and 4) avoiding bias and influence, real or perceived.

The EETIWG found that the most broadly applicable code of ethics that would best serve as the NCEPRFS was the *ASCLD/LAB Guiding Principles of Professional Responsibility for Crime Laboratories and Forensic Scientists*. The working group found that the principles in this document were appropriate to the work conducted in the federal forensic laboratories, and ultimately proposed that the ASCLD/LAB document be adopted as the NCEPRFS. The Interim Solutions Subcommittee of the National Commission on Forensic Sciences utilized this code as its starting point for a National Code of Professional Responsibility (“Code”) for all forensic science and forensic medicine service providers. The subcommittee chose professional responsibility rather than ethics as the title because ethics is a much broader term referring to many issues beyond those directly associated with forensic science and forensic medicine service providers’ professional responsibilities.

Perhaps the key element lacking from the proposed NCEPRFS was the acknowledgement and address of serious violations of professional conduct, as recommended in the NAS Report. Oversight and enforcement are critical to compliance.

Most practitioners in forensic science and forensic medicine are committed, hard-working, ethical professionals; however, education and guidance on professional responsibility is uneven and there is no enforceable universal code of professional responsibility. In addition, when nonconformities or breaches of law or ethical standards that adversely affect a previously issued report or testimony occur, there must be a process in place for reporting and remediation.

THE CODE

The National Code of Professional Responsibility for Forensic Science and Forensic Medicine Service Providers

The National Code of Professional Responsibility (“Code”) defines a framework for promoting integrity and respect for the scientific process among forensic science and forensic medicine service providers who must meet the requirements enumerated below:

1. Accurately represent relevant education, training, experience, and areas of expertise
2. Be honest and truthful in all professional affairs including not representing the work of others as one’s own

3. Foster and pursue professional competency through such activities as training, proficiency testing, certification, and presentation and publication of research findings
4. Commit to continuous learning in relevant forensic disciplines and stay abreast of new findings, equipment, and techniques
5. Utilize scientifically validated methods and new technologies, while guarding against the use of unproven methods in casework and the misapplication of generally-accepted standards
6. Avoid tampering, adulteration, loss, or nonessential consumption of evidentiary materials
7. Avoid participation in any case where there is a conflict of interest
8. Conduct independent, impartial, and objective examinations that are fair, unbiased, and fit-for-purpose
9. Make and retain contemporaneous, clear, complete, and accurate records of all examinations, tests, measurements, and conclusions, in sufficient detail to allow meaningful review and assessment by an independent professional proficient in the discipline
10. Ensure interpretations, opinions, and conclusions are supported by sufficient data and minimize influences and biases for or against any party
11. Do not render interpretations, opinions, or conclusions that are outside one's proficiency or expertise
12. Prepare reports and testify using clear and straightforward terminology, clearly distinguishing data from interpretations, opinions, and conclusions and disclosing known limitations that are necessary to understand the significance of the findings
13. Do not alter reports or other records or withhold information from reports for strategic or tactical advantage
14. Appropriately document and, if appropriate, inform management or quality assurance personnel of nonconformities and breaches of law or ethical standards
15. Once a report is issued, communicate fully with investigators, prosecutors, defense attorneys, and other experts, except when instructed that a legal privilege or law prevents disclosure
16. Appropriately inform affected recipients (either directly or through proper management channels) of all nonconformities or breaches of law or ethical standards that adversely affect a previously issued report or testimony and encourage others to inform all relevant stakeholders, including affected professional and legal parties, victim(s) and defendant(s)

Implementation

The National Commission on Forensic Science recommends that the US Attorney General require all DOJ forensic science service providers to adopt the Code. The Commission also recommends that management systems develop policies and procedures to enforce the standards embodied in this code. Policies and procedures should describe or define a system whereby individuals are protected when reporting suspicious, unscrupulous, unethical, or criminal actions without punitive concerns. The Code must be annually reviewed and signed by all DOJ forensic science service providers. In addition, there must be an effective process to report and correct nonconformities or breaches of law or ethical standards that adversely affect a previously issued report or testimony.

In addition, the National Commission on Forensic Science recommends that the US Attorney General strongly urge all forensic science and forensic medicine service providers, associated certification and accreditation bodies, and professional societies to adopt the Code, and for their management systems to develop policies and procedures to enforce the standards embodied in this code. Policies and procedures should describe or define a system whereby individuals are protected when reporting suspicious, unscrupulous, unethical, or criminal actions without punitive concerns. The Code should be annually reviewed and signed by all forensic science and forensic medicine service providers. In addition, there should be an effective process to report and correct nonconformities or breaches of law or ethical standards that adversely affect a previously issued report or testimony.

End of Document