



# NATIONAL COMMISSION ON FORENSIC SCIENCE

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

## Adjudication of Public Comments on the Initial Draft Certification of Forensic Science Practitioners

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### **Type of Work Product:**

Adjudication of Public Comments on Initial Draft Certification of Forensic Science Practitioners

### **Public Comment Summary:**

The document was posted as proscribed by Commission by-laws. Nine individuals or groups submitted comments. Eight were supportive of the certification of forensic science practitioners overall, but had specific requests relating to the specific recommendations. Mechanisms for the potential costs for the application, examination and maintenance of certification programs were a concern.

### **Adjudication Process Used by Subcommittee:**

The subcommittee met via teleconference on August 2, 2016. All comments, responses and proposed changes to the views document were discussed in detail. The revised document was submitted to the subcommittee for a vote on August 12, 2016

### **Itemized Issues and Adjudication Summary:**

#### **1. ASCLD Board Comments (DOJ-LA-2016-0011-0049)**

- A. The ASCLD Board of Directors supports the certification of forensic science practitioners but has “concerns about the inherent barriers to industry wide certification for both agencies and individuals”. The Board stated that the first view for the Agency is not specific and requires clarification in order to avoid the appearance that this view allows for exceptions or exemptions. Also clarification for those positions in which certification does not exist, there should be state and local certification program considerations.

#### *Subcommittee response*

We agree that the statement could be interpreted as a loophole for dismissing certification requirements but this was neither the intent nor spirit. The View has been clarified as follows:

**Deleted Original first Views Bullet:** *Determine applicability of certification depending on the job responsibilities of the specific individual and the availability of certification programs, including but not limited to, managers, analysts and technical support.*

- **Clarified first View Bullet:** *“Review available certification programs, giving preference to certification bodies accredited to ISO/IEC 17024 or in the process of obtaining accreditation, and apply certification requirements to job descriptions for a specific position including but not limited to, managers, analysts and technical support. For those positions in which certification programs do not exist, review of a state or local agency*

*certification program should be considered.”*

- B.** It is recommended that Appendix D from the Views document *Accreditation and Recognition of Forensic Science Certification Bodies* (National Commission on Forensic Science, 2016) be included with the Commission Views document on the *Certification of Forensic Science Professionals* (National Commission on Forensic Science, 2016).

*Subcommittee response*

We agree. Appendix “D” has been added to the *Certification of Forensic Science Professionals* View’s document. New bullet was added pertaining to budget impact as a result of another public comment:

**APPENDIX D: Additional Considerations For Implementation Include:**

- Certifying bodies have varying fee schedules.
  - Educational programs or preparatory courses should be developed to help practitioners prepare for certification examinations.
  - Certification bodies will need to develop programs or policies to address practitioners with more than one certification (i.e., continuing education credit hours could be used towards multiple recertifications).
  - There may be human resource challenges such as revising position descriptions, certifying existing employees, and modifying employment policies and procedures. Policies and procedures need to be in place if practitioners are unsuccessful in obtaining certification or do not meet the minimum certification requirements. Further, policies and procedures need to be developed to address those practitioners that can immediately achieve certification versus those that will have to wait for a certification program to be developed, particularly if incentives are being offered.
  - Licensure is not a substitution for certification, primarily because it is only recognized at the state level.
  - A state or local government or agency may attempt to substitute their own certification that is not accredited.
  - Budgetary constraints may impact the ability to obtain and maintain certification
- C.** Additionally, the certification programs need to be geared towards entry level examiners if certification is required for independent casework. Enhanced levels of certification can be added to the programs which demonstrate advanced levels of knowledge, skills, and abilities.

*Subcommittee response*

We agree that the certification bodies must have a clear and directed certification examination process as not to program entry level practitioners for failure simply because they lack experience. The agencies must take this into consideration when they are reviewing the certification programs for each position in order to assure logical compliance requirements as indicted in revised and clarified View#1 (see above).

- D.** The ASCLD Board of Directors has to acknowledge the immense financial impact this requirement will have on both agencies and individuals to require certification, maintain certification and have personnel implications if individual fails to maintain certification.

*Subcommittee response*

- We agree. This is a serious and real issue. The following bullet was added to the Appendix D “Budgetary constraints may impact the ability to obtain and maintain certification”

**2. Individual comment:**

First three bullets page 1 Comment- What is the timeframe for this and shouldn't we get the actual certification bodies in order first? Once a person is hired will there be a deadline as to when they must be certified. The American Board of Forensic Toxicology requires 3 years of professional experience before you can apply to take the exam for certification. You then have 2 years to pass the exam. So potentially someone could be doing casework for 5 years, not pass the test, and then what?

*Subcommittee response*

We agree these are all issues each agency must address. The Forensic Science Service Provider will be responsible for reviewing and implementing the certification programs based on the program’s requirements (see the revised and clarified View#1 above). Also, the following has been added to the *Certification of Forensic Science Practitioner* document: “The Commission acknowledges that there will be challenges for agencies requiring certification (Appendix D).” A new appendix has been added to this document (see above regarding Appendix D)

**3. Forensic Video Examiner and Chair of the Forensic Video Certification Board of the IAI**

I question the entry in “Appendix B” that lists “Digital Evidence-Video “of the Audio, Video and Computer Analysis Category of Testing as a sub- discipline without a certification body. I’m curious to learn why “Digital Evidence-Video” is listed in Appendix B.

This was an oversight. The Audio, Video and Computer Analysis Digital Evidence-Video line was deleted from Appendix B as this information is in Appendix A.

**4. Individual comment**

Noted that the American Board of Criminalistics certification in Comprehensive Criminalistics was noticeably absent in your list of certifications. Is this an oversight or did the commission cherry pick what they believed were suitable disciplines for certification?

*Subcommittee response*

This exclusion was an oversight and the information has been added to the Appendix A. General Criminalistics certificate holders are listed parenthetically with the Comprehensive Criminalistics holder information in Appendix A.

**5. Individual Comment**

This comment states that every forensic laboratory should be forced to be accredited but personal certification in forensic science is not necessary as Forensic Science is different than other occupations because the work is scrutinized in court all the time. Proficiency and competent should suffice. Also the cost of obtaining and maintaining certification is a consideration. I give a negative vote to this document.

*Subcommittee response*

We respectfully disagree that because forensic analysis ends up in court that certification is not necessary. Accreditation and certification are both important paths that provide the public and the judicial system a means of identifying those practitioners who have successfully demonstrated proficiency in the domain relevant to their area of practice. Certification specifically addresses the established criteria and proficiency standards necessary to perform examinations.

The first bullet View point lends itself to the agency evaluating and researching the very concerns stated in this response. As stated, we do agree that the cost of implementing and maintaining certification is important and has been added to the new Appendix D as a part of "Additional Considerations For Implementation Include:"

**6. Individual comment**

This individual supported this document, but stated a potential lever to implement certification: the courts. It was recommended that another View of the Commission be added stating: "It is the view of the Commission that all courts should: Require certification as a condition of testifying at a trial (or even issuing a report that leads to a plea bargain) if an appropriate certification program is available."

*Subcommittee response*

This scope of this view document is specifically for the practitioner and the Forensic Science Service Providers responsible for implementing and maintaining staff certification.

**7. Individual comment:**

Appendix A does not recognize that the Digital Evidence - Certified Forensic Computer Examiner (CFCE) certification through International Association of Computer Investigation

Specialists is accredited by FSAB. <http://thefsab.org/accredited.htm>  
<http://www.iacis.com/Pages/Accreditation.aspx>

This Computer Examiner information has been added to Appendix A.

## 8. Individual comment

This comment suggested adding "inspection" to the list of tasks for the footnote regarding the definition of Forensic Science Service Practitioner. Rationale was provided in the response

*Subcommittee response*

The definition cited in footnote #1 was approved by the NCFS Commissioners at meeting #6 held on April 30-May 1, 2015 and, therefore, cannot be revised in this document.

## 9. NCFS Commissioner comment:

“Views of the Commission” section

- A. “It is the view of the Commission that *forensic science agencies....*” This should instead be “Forensic Science Service Providers.”

*Subcommittee response*

We agree and have made this change.

- B. The sentences “Determine applicability of certification depending on the job responsibilities of the specific individual and the availability of certification programs, including but not limited to, managers, analysts and technical support.” and “The mandatory certification of all forensic science practitioners would improve the quality of services provided and enhance confidence in the judicial process.” Seem to be out of sync. It was suggested that these two sentences should be clarified.

*Subcommittee response*

We agree and have changed the wording of the first View to require addition of the certification requirement for each job description as to not give the impression certification is conditional. Restated from adjudication comments above :

*“Review available certification programs, giving preference to certification bodies accredited to ISO/IEC 17024 or in the process of obtaining accreditation, and apply certification requirements to job descriptions for a specific position including but not limited to, managers, analysts and technical support. For those positions in which certification programs do not exist, review of a state or local agency certification program should be considered.”*

- C. There is a concern regarding who should make certification “mandatory,” since this is a Views document, not a Recommendation that the Attorney General could influence.

*Subcommittee response*

As stated in the revised View bullet #1, each agency must make certification mandatory including the addition of the certification requirement for each job description. To clarify in the document which entity is responsible for mandating certification, the following has been added to the last paragraph of this document: “Requiring Forensic Science Service Providers to mandate the certification of their forensic science practitioners ...”

- D. First page, 4th bullet point: “Provide similar support to practitioners, if there is not a **certification program available in a specific category of testing, to maintain knowledge and skill.**” Delete “similar.”

*Subcommittee response*

We agree and have made this deletion

- E. Background section – end of first paragraph: The cut-and-pasted sentence which sets forth Recommendation 7 from the NAS Report is written in font different from the remainder of the text.

*Subcommittee response*

This change has been made.