

National Commission on Forensic Science

Meeting Summary

January 29-30, 2015

**Office of Justice Programs
81 7th Street NW, Washington, DC**



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

National Commission on Forensic Science

Meeting¹ Summary

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Brief Meeting Summary

The fifth meeting of the National Commission on Forensic Science (NCFS) primarily involved reviewing progress from each of the seven subcommittees since the last meeting. An initial draft document on “Inconsistent Terminology” was discussed and issues around the definition of forensic science were debated. Four final draft products prepared by NCFS subcommittees were voted on by the Commission and three of them were approved almost unanimously. The three approved documents include (1) a policy on accreditation of medicolegal death investigation offices, (2) a directive recommendation on certification of medicolegal death investigators, and (3) a views document on scientific literature in support of forensic science and practice. The document, which was not approved regarding universal accreditation, will likely be brought back to the Commission at the next meeting following revision by the Accreditation and Proficiency Testing Subcommittee. Educational panel presentations were given to inform Commissioners on topics such as standards in forensic science, accreditation and certification within the medicolegal death investigation community, and judicial training. An update of the plan for conducting a survey of law enforcement forensic science service providers was also provided by the Bureau of Justice Statistics. The new Acting Deputy Attorney General Sally Yates was introduced. Both she and the Acting NIST Director Dr. Willie May visited with the Commissioners on the afternoon of January 30.

Thursday, January 29

Call to Order and Welcoming Remarks

Designated Federal Officer Brette Steele

The meeting was called to order at 12:30 pm.

- 1) Leadership: Acting Deputy Attorney General (Acting DAG) Sally Yates has agreed to serve as the co-chair of the NCFS since the resignation of James Cole.
- 2) Charter: Expires on the 23rd of April and the Department of Justice is working to renew the Charter minus the prohibition on considering digital evidence.
- 3) Membership: everyone was invited to continue with the commission but they have option to give vice-chairs notice. Digital evidence perspective will be added and the Commission will work to balance membership with additional members to replace those who step

¹ The agenda for the meeting is available here:

http://www.justice.gov/sites/default/files/ncfs/pages/attachments/2015/01/15/ncfs_meeting_5_final_agenda.pdf

down. Sheriff Washington elected to step down because he is no longer a sitting sheriff, so that is one perspective we are looking to fill. Vacant positions will be filled as the process for renewal of the charter is completed.

- 4) Scope: Former DAG Cole determined that there was an issue of scope related to previously submitted work product on discovery issues. Commissioners expressed concerns and requested that the Acting DAG reconsider and clarify the decision.
- 5) It was noted the Acting DAG and Dr. May would be present on the second day of the Commission meeting for the wrap-up.

General Opening Statements on Process

Vice-Chairs: Mr. Nelson Santos and Dr. John Butler

The new work product process guidance document was reviewed as this was modified since the last meeting. All members received a copy of the work product and the adjudication process guidance documents. One main issue of the work product process is “the development of a one page abstract” to avoid any confusion as to the intent subcommittee co-chairs are planning with a particular issue.

In addition, on the initial submission of a work product, a draft, only 50% of the subcommittee is required to move the product to the floor of the Commission so that it can then be open for public comment, and that it’s open 15 days before and after it’s introduced. The adjudication of comments would occur based on the adjudication process document and in that 2/3 majority of the subcommittee members are necessary to get to the final stage to come to the Commission for vote with no further public comment, unless decided differently by the co-chairs. It was noted that subcommittees have already applied this process and it’s been successful.

The floor was opened for questions and comments on the adjudication process for public comment. Here are the highlights of the discussion:

Each subcommittee should deliberate and summarize comments. Although the specifics of the process are up to the discretion of the co-chairs, addressing each comment individually can be time-consuming so it may be more effective to address themes. Public comments are posted in advance of each meeting on regulations.gov. As long as the comments received in the 30 day public comment period are addressed and no substantial changes are made as a result of the consideration of those comments, then an additional public comment period is not required.

Summary of the agenda for the two days: there are **four documents** that have been in the 30 day review, and revisions have been made to these documents by the subcommittees:

- 1) “Universal Accreditation”;
- 2) “Accreditation Certification of the MDI” - this has been split into two documents;
- 3) “Scientific Literature in Support of Forensic Science and Practice”; and
- 4) “Inconsistent Terminology”

Future meeting dates. Planned dates for meetings six through ten were provided: April 30 - May 1, 2015; August 10-11, 2015; December 7-8, 2015; March 21-22, 2016; and June 20-21, 2016.

Working Lunch: Update – Proposal on the Survey of Law Enforcement Forensic Science Service Providers

Ms. Erica Smith, Chief, Law Enforcement Statistics Unit

Currently, there is no detailed accounting of all forensic capabilities that exist external to the traditional crime laboratory, in the Federal government and nationally. BJS will pilot a tool to help inform the universe of providers and what their capabilities are.

Two data collection approaches were discussed: A comprehensive two-stage sample design is possible, but will generally take longer to collect data, include additional funding, and would likely result in report findings at the end of 2018. In contrast, a sample-based design would yield results more quickly and provide some information to augment understanding of the issues, but more limited in scope. This type of vehicle will not allow for a detailed examination of the component topics, however, it will enable the production of a limited set of results in a more timely fashion by the end 2015 or the very beginning of 2016, at the latest. One topic outside the scope of this survey work is that of fire investigation facilities/capabilities since they typically operate external to law enforcement agencies.

Information was provided on the second approach which would make use of the pilot of the Law Enforcement Rapid Information System (LERIS). LERIS is designed to collect data from a nationally representative sample of law enforcement agencies. Field surveys are short and provide findings within six months. Information is collected and distributed via an interactive website. The Law Enforcement Statistics Unit within BJS will work with the Commission to develop questions by the spring of 2015. Testing and finalizing the tool are anticipated for late summer/early fall. Options for collecting data/information from medical examiners (MEs), coroners, and arson incidents is an important consideration for the future.

Discussion:

Accreditation is one topic the tool can incorporate. NCFS recommendations should not be delayed to consider the results of the assessment. The definition of "backlog" used in the census of publicly funded laboratories will be considered in the process of developing questions. The scope of the survey should be focused, as the target for providing information should be approximately 20 minutes. Generic OMB clearance is expected to be about two weeks because this work is being conducted as a pilot for a new system.

Interim Solutions Subcommittee Report

Co-Chairs Mr. Dean Gialamas and Mr. Peter Neufeld

The subcommittee has been working on several documents:

- 1) Definition of forensic science and forensic science service providers;
- 2) The national code of professional responsibility; and
- 3) AFIS Interoperability.

Definition of forensic science and forensic science service providers: With respect to the term forensic science service provider, the definition was too broad and difficult in its original form and it

was broken up in response to the public comments received. The other main themes of the comments were about digital evidence and medical examiners. Both have been addressed by generally being included in definitions.

Forensic science – “Application of scientific or technical practices to the recognition collection, analysis, and interpretation of evidence for criminal and civil law or regulatory issues.”

Forensic medicine – “Application of medical knowledge and practices to the investigation of the medical, legal aspect of death injury or behavior. Agency and practitioner: agency is an organization that employs forensic practitioners. The practitioner is an individual who applies medical knowledge and practices the medical or legal aspects of death injury neglect or behavior.”

Discussion

Comments were made with respect to the terms, “science,” “technical practice,” and “practitioner,” and the combination of forensics and medicine. A potential straw vote on “science” was suggested for day two of meeting.

The national code of professional responsibility: This work product covers 16 points on training, competency, life-long training, and the need to base reports and evaluations on unbiased and an honest full and fair approach. This document is largely based on work from the ethics interagency working group (IWG) as part of the White House Subcommittee on Forensic Science in which more than 40 codes of ethics of major organizations from around the world were compiled.

Discussion

Concern was expressed about potential duplication of effort between this and the OSAC’s creation of a similar document. There was mention of communicating with OSAC on potential of duplicity, enforceability, and creation of a liaison between individual subcommittees and the OSAC. Another comment was made that the subcommittee referenced the NAS report’s synopsis of this issue.

AFIS interoperability: The subcommittee is considering recommendations and issues related to AFIS interoperability. One potential recommendation is that the DOJ review and revise policies to increase local jurisdictions access to the FBI’s NGI, DoD, and DHS systems. Another consideration relates to quality assurance and the development of conformance testing criteria that can be built-in to AFIS systems in the future.

Closing statement for this session: Additionally the subcommittee has drafted a document on root cause analysis which focuses how problems are resolved. The subcommittee is working on guidance to address the transparency of quality records to be made available for review in a wider distribution outside of formal discovery. Lastly, the interim solutions subcommittee will be sunset upon completion of its assigned areas, unless other issues arise for consideration.

Human Factors Subcommittee Report

Co-Chairs Justice Bridget Mary McCormack and Professor Troy Duster

The subcommittee is focusing on models and practices which might be deployed nationally. *Ad-hoc* working groups have been charged with developing guiding principles for human factors. The group intends to develop overarching principles that could be considered by OSAC for field implementation.

Discussion

Distinguishing between good examples and best practices with respect to human factors was discussed. At this point, the subcommittee is considering views documents, policy recommendations, and directive recommendations.

Standards in Forensic Science

Gordon Gillerman, NIST Standards Coordination Office Director;

Warren Merkel, National Voluntary Laboratory Accreditation Program (NVLAP) Chief

Karen Reczek, NIST Standards Coordination Office Senior Standards Information Specialist & OSAC QIC Chair

Based on Dr. May's suggestion and that of the Commission, the NCFS staff organized for three speakers from NIST to discuss standards development, the role of standards, and OSAC activities as it relates to forensic science standards development. NIST events were mentioned including "Forensics at NIST" symposium held Dec 3-4, 2014, showcasing forensic science research being performed at NIST and the NIST Forensic Science Center of Excellence which will be awarded end of March.

The presentation provided highlights of six ISO standards (ISO/IEC 17025, 17020, 17011, 17024, 17043, and ISO 15189) and the American National Standards Institute (ANSI) Essential Requirements and the International Laboratory Accreditation Cooperation (ILAC) G19 Modules in a Forensic Science Process which were provided for review at the meeting.

The presentation focused on standardization, accreditation, and standards. Standards have many roles in methods, process requirements, and best practices. There are many different types of standards and Standard Development Organizations (SDOs) and the variability was discussed. Conformity assessment and certification of products and management systems were also discussed.

In accreditation, the laboratory operation is the object of an assessment and technical requirements for accreditation were discussed. Methods, method validation, reporting requirements, documented procedures were all identified as important components of a quality system that is subject to review as part of the accreditation process.

The differences between ISO/IEC 17025 and 17020 were discussed: 17025 is the testing or calibration operations, whereas 17020 is a generic standard for inspection of products, processes, services, or installations. Generally, there is a five year periodic review after a standard is published. There are many accreditation schemes in the U.S., and there is international recognition of accreditation bodies. Accreditation is not conditional upon the characteristics of the applicant, but certain criteria must be met for an entity to be eligible to apply for accreditation.

The OSAC quality infrastructure committee provided an update on their activities. The registry and the catalog of forensic standards and guidelines were presented. The OSAC registries plan to contain documentary standards and guidelines that have met technical merit criteria. There are 729 documents that are currently available online (copy written documents are not published).

Discussion

The format and quality of standards; challenges to proficiency testing; method validation; human factors; data interpretation; and the cost of accreditation were discussed. It was acknowledged that there is difficulty in applying 17025 to non-traditional forensic operations and that guidance might be useful to assist assessors in this process. Differences between validated methods and analytical techniques and validation and verification were also discussed.

Wrap-up

The speakers and commissioners were thanked and the meeting was adjourned for the day.

Friday, January 30

Call to Order and Welcoming Remarks

Vice-Chairs: Mr. Nelson Santos and Dr. John Butler

The meeting opened at 9:00 a.m. with the announcement that the acting DAG would visit at 2:00 p.m. Before a straw vote on “science”, a discussion occurred on definitions. And the voting clickers were tested.

Vice-chair Butler reiterated voting protocols and noted on the Commission website (<http://www.justice.gov/ncfs/members>) and in a recent article written by VC Butler that is available at <http://www.nist.gov/forensics/upload/Butler-ISHI-Proceedings2014.pdf>, there are 31 voting members and 8 *ex-officio* members. For the voting at this meeting, there were 29 possible votes. Commissioner Ryant Washington resigned his position on the Commission and has not yet been replaced with another sheriff. Commissioner Andrea Ferreira-Gonzalez did not attend the meeting or provide a proxy. Commissioner Tom Cech had Ed McCleskey present at the meeting as a proxy. Commissioner Vince Di Maio had Randy Hanzlick present at the meeting as a proxy. Commissioners Cecelia Crouse and Phil Pulaski were not present at the meeting but watched the webcast proceedings and provided their votes via an internet connection or via text message to VC Butler. With 29 possible votes, 20 votes were needed to achieve a two-thirds majority.

Discussion of definitions

It is the responsibility of the NCFS to define forensic science for use in its work products. A vote was taken to adopt language found on pages 38-39 of the National Research Council 2009 report, “Strengthening Forensic Science in the United States: A Path Forward.”

The final vote count was: 81%yes; 19% no; and 0% abstain

Accreditation and Proficiency Testing Subcommittee Report
Co-Chairs Ms. Linda Jackson and Ms. Patricia Manzolillo

Since the last NCFS meeting, public comments related to the “Universal Accreditation” work product were adjudicated so that the document could be finalized for a vote. Views documents will be made available for the next meeting on “Proficiency Testing” and “Steps to Accreditation.”

Policy Recommendation for Vote: Universal Accreditation.

It was recommended by the subcommittee that a policy be adopted that requires all forensic science service providers to become accredited (with some limited exceptions). Specific recommendations are included for DOJ forensic science service providers.

Points of clarification were provided on the following: it was noted that forensic science service provider would be as defined in the Universal Accreditation document and that digital evidence is not permitted to be covered under the current NCFS charter as part of this vote. It was also noted that a future meeting vote could include digital evidence. The subcommittee considered regulatory, fiscal, and administrative issues regarding the date required for universal accreditation. The language currently requires application for accreditation within a five year time-frame. In addition, an appendix was added to address one-person operations.

An amendment was proposed to the Universal Accreditation document after it had been voted out of subcommittee related to a footnote and the issue of admissibility being included as a benefit of accreditation. After some discussion, it was decided to vote on whether or not this amendment represented a substantial change. Polling was conducted to address the question “is the amendment substantial change?”

It was decided to go forward with a vote on adopting the document, as voted out of subcommittee without the footnote amendment.

The final vote count was: 56.5172% (19 votes) yes; 31% (9 votes) no; and 3% (1 vote) abstain

Nineteen (19) Commissioners voted “Yes”: Suzanne Bell, Fred Bieber, Greg Czarnopys, Bonner Denton, Vince Di Maio (via proxy Randy Hanzlick), Troy Duster, John Fudenberg, Dean Gialamas, Judge Hervey, Susan Howley, Ted Hunt, Linda Jackson, Marc LeBeau, Judge McCormack, Phil Pulaski (via internet connection), Jeff Salyards, Nelson Santos, Tom Cech (via proxy Ed McCleskey), and Cecelia Crouse (later via text to VC Butler because the internet connection went down). The nine (9) Commissioners voted “No”: Stephen Fienberg, Jim Gates, Paul Giannelli, John Kacavas, Pam King, Julia Leighton, Peter Neufeld, Matt Redle, and John Butler.

Clarification and review of the re-count results were made by VC Butler just prior to the lunch break. With only 19 votes for approval out of 29 possible, the “Universal Accreditation” final draft document did not pass and will go back to the subcommittee for further work.

Accreditation and Certification within the Medicolegal Death Investigation (MDI) Community

Dr. Steven Clark, Director, Occupational and Research Assessment, Inc.

The roles and development of accreditation standards for death investigators, medical examiners and coroner offices in the US was discussed. The participants in the investigation of death cover a very broad set of job titles. For example, there are 72 different job titles that exist in the world of the investigation of a suspicious death or what might be in the parameters of the medical examiner or coroner jurisdictional world. There are also legislative or statutory requirements. Guidelines and standards were identified, and accreditation and certification processes were reviewed. Both large and small offices were discussed. Medical examiner offices, coroner offices, medical examiner systems, and autopsy facilities were all noted.

Discussion

Discussion was had on the differences within the death investigation profession and there was also discussion on education requirements and oversight bodies for accrediting institutions. Issues such as the intersection of FSAB, ILAC, and surveys to obtain more accurate data were also discussed.

Medicolegal Death Investigation Subcommittee Report

Co-Chairs Dr. Vincent DiMaio and Mr. John Fudenberg

Policy Recommendations for Vote: Accreditation of Coroner and Medical Examiner Offices and Certification of Medicolegal Death Investigation Personnel.

A major point made initially by the subcommittee is that as a result of the last commission meeting it was decided to separate the one proposal that dealt with both accreditation and certification into two separate proposals.

Accreditation of Coroner and Medical Examiner Offices

NCFS requests that the attorney general approve a policy that all offices and institutions be accredited by the year 2020 and that the Office of Justice Programs (OJP) should assist in a funding mechanism to support an accreditation program to achieve the objectives of the recommendation.

After the word “performing,” “government funded official” and after the word “activities,” “for medical examiner/coroner system” were added prior to the vote.

The final vote count was:

1. 100 YES
2. 0% NO
3. 0% ABSTAIN

However, only twenty-six (26) votes registered a “Yes” with the clickers. The three votes not counted were from Greg Czarnopys, Judge Hervey, and Peter Neufeld. The policy recommendation, which needed a two-thirds majority, passed.

Certification of Medicolegal Death Investigation Personnel.

The National Commission on Forensic Science requests that the Attorney General of the United States approve a recommendation that directs the OJP to establish a priority to use grant funds to defray the cost of ensuring all medicolegal death investigators (MDI) and Coroners (functioning as medicolegal death investigators) in the United States obtain professional certification by the year 2020. It was noted that this document does not address certification to forensics pathologists.

Minor revisions to this directive recommendation were made and reviewed by the Commission prior to voting.

The final vote count was:

1. 93% YES
2. 7% NO
3. 0% ABSTAIN

Twenty-seven (27) votes registered a “Yes” or “No.” The two votes not counted were from Pam King and Vince Di Maio’s proxy Randy Hanzlick. The two “No” votes were from Fred Bieber and Marc LeBeau. The directive recommendation, which needed a two-thirds majority, passed.

Working Lunch: Judicial Training in Forensic Science

Katheryn Yetter, Academic Director, National Judicial College (on the phone, slide package)

Judge Jeremy Fogel, Director, Federal Judicial Center (slide package)

Judge Mark Atkinson, CEO, Texas Center for the Judiciary (slide package)

Overview: This Section focused on the practical aspects of judicial education on forensic science.

The first speaker was Katheryn Yetter and the presentation focused on a self-study course on traditional forensic evidence. It complements a four-day, live, in-person course provided by the National Judicial College (NJC) on the topic of scientific evidence. This is a three-year project to develop a series of four to six Web-based modules. Each module will be approximately one hour of interactive learning. The judges who take this program must respond to self-assessment quizzes. There is also an opportunity for feedback from faculty. The primary issue is the role of the Judge as gatekeepers. The other major issue being looked at is consistency in terminology.

The next speaker was Jeremy Fogel of the Federal Judicial Center. The Federal Judicial Center is the agency tasked with education for all federal judges and court staff, as well as policy research for the federal judiciary. The Center has a long history of collaboration with the National Academy of Sciences who serve as co-publishers of the reference manual on scientific evidence. One of the members of the NCFS is a co-author of that manual. The Center is currently modernizing its curriculum and looking at the needs of judges and how to meet them [with respect to forensic evidence]. Clearly, education on forensic science is one of the prominent things that the judges need.

The next speaker was Judge Mark Atkinson. Judge Atkinson is a training judge in Texas at the county level and above. The state provides \$18 million to educate judges, there are numerous grantees and Judge Atkinson oversees this program. In Texas, there are two supreme courts with equal jurisdiction and the members of the court are in a position to see what areas of concern there are throughout the system and it is well recognized that forensics is an issue and Judge Atkinson will discuss how curriculum is developed.

The Texas Center for the Judiciary was established in 1980 as a non-profit organization. There is a curriculum committee. The curriculum is responsive to what is going on in the courts. It's taught by judges, attorneys, and professors (science). Aggressive evaluations are conducted and these are very detailed. Ultimately, people like those of the Commission are brought in to speak to our judges. In terms of developing curriculum, the Committee goes to conferences and interacts with speakers. They are a diverse group made up of judges, attorneys, policy makers and other professions such as Commissioners and they get their ideas and recommendations from face-to-face meetings and conferences. Distance learning has been discussed, but attendance and meeting at the conferences is preferred and deemed more effective. The topic of forensics is important, as well as training topics from programs such as the innocence project, and topics on criminal justice. A wide number of topics are covered, including pre-trial discovery.

Discussion

Discussion was had on the length of training (time) and whether judicial training programs should be judges-only or if more interdisciplinary environments are preferred. It was noted that an audience of judges offers a venue where they are likely to be more candid with their peers. If it is a mixed group, people are often more careful and it's hard to obtain the right level of engagement instructors are looking for. The value of peer-to-peer education was emphasized as an important component of judicial training. With respect to the length of time, it depends on how creative the curriculum is. With the neuroscience programs, for example, it usually requires a couple of days to cover all of the material. That also seems to be a good level of time in terms of the attention needed from the audience. Discussion then focused on the use of 'ambassadors' or 'train the trainer' models. The essence of the adult learning philosophy is actually learning the most if you teach content that can be dispersed more broadly.

The vice-chairs thanked the panelists and the Section was closed.

The vice-chairs moved the meeting to "**ITEMS PENDING.**"

There were minor amendments to the policy recommendation for vote related to the document, "Accreditation of Coroner and Medical Examiner Offices." It was decided over the break by the chairs of the subcommittee to remove "conformity assessment" from the text on "organization" at bottom of page 1, there was a footnote change, and some appendix edits. The Commission noted it was important to see the changes prior to voting. In summary, the text "ISO approved" was changed to "recognized", correcting the verbiage.

A final draft version of the “Accreditation of Medicolegal Death Investigation Offices” is available at <http://www.justice.gov/sites/default/files/ncfs/pages/attachments/2015/01/21/mdiaccrreditationfinal.pdf>. Minor revisions to this policy recommendation were made and reviewed by the Commission prior to voting. The specific recommendation is “The National Commission on Forensic Science requests that the Attorney General of the United States approve a policy that recommends that all offices, facilities, or institutions performing government-funded official medicolegal death investigation activities, for medical examiner/coroner system, be accredited by the end of the year 2020.”

The final vote count was:

4. 100% YES
5. 0% NO
6. 0% ABSTAIN

However, only twenty-six (26) votes registered a “Yes” with the clickers. The three votes not counted were from Greg Czarnopys, Judge Hervey, and Peter Neufeld. The policy recommendation, which needed a two-thirds majority, passed.

Disclaimer/Clarification: Votes may not have registered if buttons were not pushed hard enough. In the future, vice-chairs plan to track the total number of votes on the screen prior to closing the polling an request that those wishing to vote “ABSTAIN” use this option rather than not voting at all.

The final document as adopted by the Commission is available on the NCFS website at http://www.justice.gov/sites/default/files/ncfs/pages/attachments/2015/02/25/mdi_accrreditation_final_as_amended_1_30_15.pdf.

The vice-chairs moved to addressing minor edits and grammar corrections, including the need for sustainable funding through the year 2020, related to the policy recommendation for vote document “Certification of Medicolegal Death Investigation Personnel”. It was noted that this document did not recommend certification to forensics pathologists. Coroners should become certified. The recommendation was read to the Commission to remind them of this: “The National Commission on Forensic Science requests that the Attorney General of the United States approve a recommendation that directs the Office of Justice Programs to establish a priority to use grant funds to defray the cost of ensuring all medicolegal death investigators (MDI) and Coroners (functioning as medicolegal death investigators) in the United States obtain professional certification by the year 2020.” Small These changes were thought to be minor.

A final draft version of the “Certification of Medicolegal Death Investigation Personnel”, is available at <http://www.justice.gov/sites/default/files/ncfs/pages/attachments/2015/01/21/mdicertificationfinal.pdf>. Minor revisions to this directive recommendation were made and reviewed by the Commission prior to voting. The specific recommendation is that “The National Commission on Forensic Science requests that the Attorney General of the United States approve a recommendation that directs the

Office of Justice Programs to establish a priority to use grant funds to defray the cost of ensuring all medicolegal death investigators (MDI) and Coroners (who are involved in conducting medicolegal death investigations) in the United States obtain professional certification by the end of the year 2020.”

The final vote count was:

4. 93% YES
5. 7% NO
6. 0% ABSTAIN

However, only twenty-seven (27) votes registered a “Yes” or “No” with the clickers. The two votes not counted were from Pam King and Vince Di Maio’s proxy Randy Hanzlick. The two “No” votes were from Fred Bieber and Marc LeBeau. The directive recommendation, which needed a two-thirds majority, passed.

The final document as adopted by the Commission is available on the NCFS website at http://www.justice.gov/sites/default/files/ncfs/pages/attachments/2015/02/25/mdi_certification_final_as_amended_1_30_15.pdf.

The vice-chairs closed the pending items discussion and moved the meeting to the next Section.

SCIENTIFIC INQUIRY AND RESEARCH SUBCOMMITTEE REPORT

Co-Chairs Dr. Suzanne Bell and Dr. Jeff Salyards

Final Views Document for Vote: Scientific Literature in Support of Forensic Science and Practice

Commissioners voted to adopt the final views document “Scientific Literature in Support of Forensic Science and Practice” based on the language as posted on the NCFS website at: <http://www.justice.gov/sites/default/files/ncfs/pages/attachments/2015/01/21/scientificliteratureviewsdocumentfinaljan2015.pdf> (with removal of “it” as described by Commissioner Ted Hunt during the meeting from the bottom of page 2: “Given this background and considerations, it is the position of the NCFS ~~it~~ that foundational, scientific literature supportive of forensic practice should meet criteria such as the following:”)

The final vote count was:

1. 100% YES
2. 0% NO
3. 0% ABSTAIN

However, only twenty-six (26) votes registered “Yes” with the clickers. The three votes not counted were from Nelson Santos, Judge McCormack, and Peter Neufeld. This views document, which needed two-thirds majority, passed.

The final document as approved by the Commission is available on the NCFS website:

http://www.justice.gov/sites/default/files/ncfs/pages/attachments/2015/02/25/scientific_literature_views_document_as_adopted_1_30_15.pdf.

The vice-chairs closed the voting time and the meeting moved to the next agenda item.

Status Report: Forensic Science Foundation Research Directive

A directive recommendation is being developed that strives to bridge the gap between research and practice, education, and adaptation. The subcommittee is also considering a proposal that to conduct an analysis of current proficiency test providers, including the information that is collected and how tests are conducted to include the type of instrumentation they used and how the resultant data is reported. No one has conducted a meta-analysis of those data.

The discussion then transitioned into a focus on the role of forensic science in mass fatality management. It was noted that the subcommittee on Disaster Victim Identification SAC is looking into these issues. In general, it was identified that there is a need for a National Call Center, which is an issue that the Commission could consider. There was general consensus that most practitioners in this domain recognize that this is a major problem and that Federal leadership (through the MDI subcommittee of the NCFS) would go a long way toward addressing the challenges of implementation at the National level. There was some discussion related to whether this is within the scope of the Commission, and it was noted that mass fatality issues go to the heart of recommendation #13² of the NAS report. It was determined that a presentation on these issues would be delivered at the next meeting.

Prior to starting the next subcommittee status report, one of the vice-chairs noted, per discussions with members during the break, that it is important that the Commission recognizes there are a lot of processes within forensic sciences that occur before the courtroom. The Commission tends to be very focused on the courtroom and it was requested that we ensure we are focusing on issues related to the science and quality of practice as well as addressing issues focused on the 'consumers' of results.

Training o Science and Law Subcommittee Report

Co-Chairs Professor Jim Gates and Judge Barbara Hervey

The subcommittee plans to produce work products informed by the work of the rest of the Commission. The question was posed regarding restrictions that exist to bringing additional expertise

² Recommendation #13: Congress should provide funding to the National Institute of Forensic Science (NIFS) to prepare, in conjunction with the Centers for Disease Control and Prevention and the Federal Bureau of Investigation, forensic scientists and crime scene investigators for their potential roles in managing and analyzing evidence from events that affect homeland security, so that maximum evidentiary value is preserved from these unusual circumstances and the safety of these personnel is guarded. This preparation also should include planning and preparedness (to include exercises) for the interoperability of local forensic personnel with federal counterterrorism organizations (2009 NAS Report).

to the subcommittee as needed. The Vice-Chairs advised that they can bring additional expertise as needed, but standing members of the Subcommittees should not exceed ~20 members.

The subcommittee also plans to engage with members of the defense bar, prosecutors, forensic scientists, and law enforcement on the needs of their constituencies as it relates to training issues. It is the intent of the group to introduce a draft work product at the next meeting related to options for judicial training, in addition to assessment tools of the training programs.

The vice-chairs moved the meeting to an open discussion on potential topics Commissioners would like to see for upcoming meetings. The following topics were suggested:

- 1) Update on Status of Adopted NCFS Recommendations
- 2) Mass Fatality Issues
- 3) Public Education of Forensic Science
- 4) Lessons Learned from Forensic DNA
- 5) OSAC Update

Discussion with the NCFS Co-Chairs

Acting Deputy Attorney General Sally Q. Yates and Acting NIST Director Dr. Willie E. May

The Co-Chairs thanked the members for their efforts in making the concept of a National Commission on Forensic Science a reality. Judge Jed Rakoff appeared with the Co-Chairs to announce his reinstatement on the Commission, as a resolution has been reached on the future of the work product related to discovery issues. Acting DAG Yates expressed her gratitude to Judge Rakoff for his willingness to work with the Department on arriving at a reasonable solution, and noted that the Department's national discovery expert, Andrew Goldsmith, will be working to assist as well. Dr. May also thanked the members of the Commission for their steadfast commitment to the work of the NCFS.

Reporting and Testimony Subcommittee Report

Co-Chair Mr. Matt Redle

Introduction of the Initial Draft Views Document on Inconsistent Terminology

The first work product that was discussed was the views document on inconsistent terminology. The discussion began with identifying the dynamic that different disciplines use the same terminology differently, and it is important that the disciplines standardize how terms are defined and used, including limitations. It was recognized that there might be some overlap with efforts pursued by OSAC and further development of the document would certainly take that into consideration. Issues regarding the qualitative nature of language, especially that used in testimony, were also raised and while addressing all issues related to these challenges are not going to be addressed in this particular document, it is a starting point. It was also identified that the subcommittee is pursuing a work product related to expert testimony.

Status Reports: Discovery, Expert Testimony, Report Writing, Probabilistic Statements

The subcommittee Co-Chair indicated many other work products are in the pipeline and the subcommittee will be working to adjudicate public comments received once the public comment period closes.

The vice-chairs coordinated the Wrap-up of the subcommittees. Each subcommittee summarized their activities to date and reiterated the information presented during the meeting.

Public Comment

There were no public comments.

Adjourn

The meeting was adjourned at 5:00 pm.

Meeting Attendee List

Last	First	Attendee	Titl	Business
Bell	Suzanne	Commissione	Associate Professor	West Virginia University
Bieber	Frederick	Commissione	Professor	Harvard Medical School
Butler	John	Commissione	NCFS Vice-Chair	NIST
Czarnopys	Gregory	Commissione	Deputy Assistant Director	Forensic Services, Office of Science
Denton	Bonner	Commissione	Professor	University of Arizona
Duster	Troy	Commissione	Professor	UC Berkeley
Epstein	Jules	Commissione	Professor	Widener School of Law
Fienberg	Stephen	Commissione		Carnegie Mellon University
Fudenberg	John	Commissione	Asst. Coroner	Clark County Office of the Coroner/ME
Gates, Jr.	S. James	Commissione	Professor	University of Maryland
Gialamas	Dean	Commissione		Los Angeles County Sheriff's
Giannelli	Paul	Commissione	Professor	Case Western Reserve University
Goldsmith	Andrew	Commissione		Department of Justice
Hervey	Barbara	Commissione	Judge	Texas Court of Criminal Appeals
Howley	Susan	Commissione	Public Policy Director	National Center for Victims of Crime
Huestis	Marilyn	Commissione	Chief, Chemistry Drug	National Institute on Drug Abuse, NIH

Last	First	Attendee	Titl	Business
Hunt	Ted	Commissione	Chief Trial Attorney	Jackson County (Kansas City)
Jackson	Linda	Commissione		Virginia Department of Forensic
Kacavas	John	Commissione	United States Attorney for the District of New Hampshire	United States Attorney's Office
King	Pamela	Commissione		Minnesota State Public Defender
LaPorte	Gerry	Commissione		National Institute of Justice
LeBeau	Marc	Commissione	Chief Scientist	FBI Laboratory
Leighton	Julia	Commissione	General Counsel	Julia Leighton
Manzollilo	Patricia	Commissione	Laboratory Director	IIS Postal Inspection Service
May	Willie	Commissione	Acting Under Secretary of Commerce for Standards and	NIST
McCleskey	Edwin	Commissione	Senior Scientific Officer	Howard Hughes Medical Institute
McCormac	Bridget	Commissione	Justice	Michigan Supreme Court
Motta	Thomas	Commissione	ODNI S&T	ODNI S&T
Neufeld	Peter	Commissione	Co-Director	Innocence Project
Redle	Matt	Commissione	Sheridan County Prosecuting	Sheridan County Attorney's Office
Salyards	Michael	Commissione	Executive Director	Defense Forensic Science Center
Santos	Nelson	Commissione	Deputy Assistant Administrator	Office of Forensic Sciences, Drug Enforcement Administration
Schrotter	Frances	Commissione	Sr. VP & COO	American national Standards Institute
Jones	Robin	Commission Staff		Department of Justice
Steele	Brette	Commission Staff		Department of Justice
Weiss	Danielle	Commission Staff		Booz Allen Hamilton/National Institute of Justice
Fogel	Jeremy	Speaker	Director	Federal Judicial Center
Gillerman	Gordon	Speaker	Interim Director, Standards Coordination Office	NIST
Merkel	Warren	Speaker		NVLAP
Reczek	Karen	Speaker		NIST
Smith	Erica	Speaker	Chief, Law Enforcement Statistics Unit	Bureau of Justice Statistice, DOJ
Yetter	Katheryn	Speaker	Academic Director	National Judicial College
Athanas	Karin	VIP	Program Manager, Forensics	American Association for Laboratory Accreditation (A2LA)

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Atkinson	Mark	VIP	Judge/CEO	Texas Center for the Judiciary
Cavanagh	Richard	VIP	Acting Associate Director for Laboratory Programs	NIST
Clark	Steven	VIP	Director	Occupational Research
Marone	Peter	VIP		Retired Director Virginia Department of Forensic Science
Poster	Dianne	VIP	Special Assistant to the Acting NIST Director	NIST
Roberts	Maria Antonia	VIP		NIJ/FBI
Schechter	Marvin	VIP	Attorney	Marvin E. Schechter, Esq.
Stolorow	Mark	VIP	Director of OSAC Affairs	NIST
Turman	Kathryn	VIP	Assistant Director	Federal Bureau of Investigation
Barretta	Michelle	Public	Project Assistant	AAAS
Bordner	Pamela	Public	Sr. Accreditation Program Manager	ASCLD/LAB
Brown	Catherine	Public	Vice President, Operations	Collaborative Testing Services, Inc.
Burrill	Julie	Public		Public Defender Service
Chu	Sarah	Public	Sr. Forensic Policy Advocate	Innocence Project
Fabricant	M. Chris	Public		Innocence Project
Ferrell	Rebecca	Public	Program Director, Biological Anthropology	National Science Foundation
Gamette	Matthew	Public	Idaho State Police Laboratory System Director	Idaho State Police
Greene	Mark	Public		National Institute of Justice
Henry-Spires	Diedra	Public	CEO	The Dalton Daley Group
Hsu	Spencer	Public		Washington Post
Huffman	Katharine	Public	Principal	The Raben Group LLC
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Jones II	John Paul	Public	Associate Director of OSAC Affairs	NIST
Levick	Sandra	Public		Public Defender Service
Lipka	Matthew	Public		Domestic Policy Council
Martin	Kenneth	Public	CFSO Representative	International Association for Identification
McCleary	Nicole	Public		RTI International

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Mills	Brady	Public	President	ASCLD
Penchina	Daniel	Public		The Raben Group
Pierce	Emily	Public	Deputy Director	Office of Public Affairs, U.S. Department of Justice
Ramotowski	Robert	Public		U.S. Secret Service
Runkle	Deborah	Public	Senior Program Associate	AAAS
Schwartz	Dawn Elizabeth	Public	Forensic Analyst	Booz Allen Hamilton
Spires, Jr.	Myles	Public	Chairman	The Dalton Daley Group
Tulley	Jason	Public	Special Counsel to the Director	Public Defenders Service for the District of Columbia
Voshell	Emily	Public		Public Defender Service
Waltke	Heather	Public		Office of Investigative and Forensic Sciences/NIJ
Weedn	Victor	Public	Professor and Chair	GWU Dept of Forensic Sciences