

National Commission on Forensic Science Status Update

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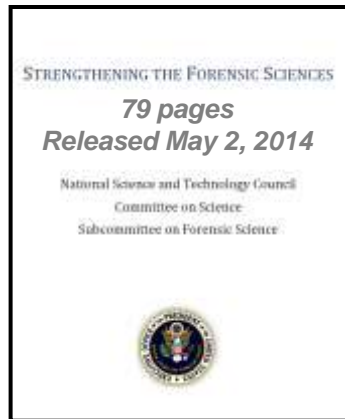
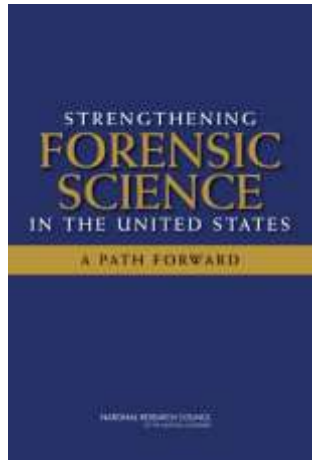
American Academy of Forensic Sciences
Orlando, FL
February 19, 2015



Presentation Outline

- Commission Establishment and Activities (John)
 - DOJ and NIST roles and leadership
 - Timeline of activities
 - Subcommittees established
 - Brief review of each meeting
- Commission Work Products (Nelson)
 - Public comment opportunities
 - Draft documents reviewed
 - Final work products approved

NCFS and OSAC: U.S. Efforts to Strengthen Forensic Science



http://www.whitehouse.gov/sites/default/files/microsites/ostp/NSTC/strengthening_the_forensic_sciences_may_-_2014.pdf

- National Academy of Sciences (**NAS**) **report** issued in Feb 2009
- White House **Subcommittee on Forensic Science** (SoFS) operated from July 2009 to Dec 2012

DOJ/NIST Partnership (announced Feb 2013)

1. **NCFS** (National Commission on Forensic Science)
 - First meeting held February 3-4, 2014 in Washington DC
2. **OSAC** (Organization of Scientific Area Committees)
 - 542 members named; first public meetings held in Feb 2015

Recent Roles of NIST in Federal Government Forensic Science Efforts

Conducted under Memorandum of Understanding (MOU) with DOJ

1. Co-lead the National Commission on Forensic Science

- Federal Advisory Committee to the Department of Justice (DOJ): NIST co-chair (Willie May) and NIST vice-chair (**John Butler**)
- **Focused on policy issues to improve forensic science**
- 31 Commissioners and 8 *ex-officio* members; four meetings held in 2014

2. Organization of Scientific Area Committees

- NIST-led community-based effort: **Mark Stolorow** and **John Paul Jones**
- **Focused on development of discipline-specific standards of practice**
- 542 subject matter experts selected to contribute to development of standards

3. Continuing forensic science research efforts at NIST

- **Previous support from the National Institute of Justice (NIJ) has now transitioned to direct Congressional funding to NIST**
- **Susan Ballou** is NIST program director for forensic science research
- NIST Forensic Science Center of Excellence (\$20M over 5 years) – announcement of winner to be made in March 2015

Article Describing the Commission and OSAC

The National Commission on Forensic Science and the Organization of Scientific Area Committees

John M. Butler

National Institute of Standards and Technology
Gaithersburg, Maryland, USA

Abstract

18 pages of information

In early 2014, the U.S. Department of Justice (DOJ) and the National Institute of Standards and Technology (NIST) launched the National Commission on Forensic Science (NCFS) and the Organization of Scientific Area Committees (OSAC) to aid efforts in strengthening forensic science in the United States. NCFS is a two-year renewable federal advisory committee to DOJ with a diverse set of stakeholder perspectives that provide views and policy recommendations to the Attorney General. The NIST-led OSAC effort is being established to provide leadership in developing discipline-specific standards of practice. Ultimately standards and guidelines that populate an OSAC registry will enable accreditation bodies to audit forensic science service providers to these discipline-specific forensic science standards of practice.

This article describes objectives and duties, membership, and first-year activities of the NCFS and the OSAC efforts. Slides presented on this topic October 1, 2014 at the 25th International Symposium on Human Identification (ISHI) are available at

<http://www.nist.gov/forensics/upload/JB-NCFS-and-OSAC-ISHI2014.pdf>.

<http://www.nist.gov/forensics/upload/Butler-ISHI-Proceedings2014.pdf>

National Commission on Forensic Science (NCFS)

www.justice.gov/ncfs

Policy-focused

NCFS Leadership

In 2013, the Department of Justice (DOJ) established the National Commission on Forensic Science, in partnership with the National Institute of Standards and Technology (NIST), to enhance the practice and improve the reliability of forensic science. This unique partnership draws upon each agency's core strengths to promote scientific validity, reduce fragmentation, and improve federal coordination of forensic science.

The Commission is co-chaired by Deputy Attorney General James M. Cole and NIST Acting Director and Acting Under Secretary of Commerce for Standards and Technology, Willie E. May. Nelson Santos, Deputy Assistant Administrator for the Office of Forensic Sciences at the Drug Enforcement Administration, and John M. Butler, Special Assistant to the NIST Director for forensic science, serve as vice-chairs. Brette Steele, Senior Advisor on Forensic Science and Senior Counsel to the Deputy Attorney General serves as the Designated Federal Officer and Robin Jones, Consultant within the Department of Justice, serves as Program Manager.

The Commission includes federal, state and local forensic science service providers; research scientists and academics; law enforcement officials; prosecutors, defense attorneys and judges; and other stakeholders from across the country.

GENERAL INFORMATION
NATIONAL COMMISSION ON FORENSIC SCIENCE

CONTACT

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31 voting and 8 *ex-officio* members

Last meeting (5th): January 29-30, 2015

Next meeting (6th): April 30-May 1, 2015



Sally Q. Yates
Acting
Deputy Attorney General
DOJ Co-Chair



Willie E. May
Acting
Director of NIST
NIST Co-Chair



Nelson A. Santos
Vice-Chair (DOJ)



John M. Butler
Vice-Chair (NIST)

Timeline for Commission Activities

- Announcement at AAFS 2013 meeting (February 21, 2013)
- Commission charter filed (April 23, 2013)
- Commission membership named (January 10, 2014)

Meetings held so far (first-term of Commission):

- *First* meeting (February 3-4, 2014)
- *Second* meeting (May 12-13, 2014)
- *Third* meeting (August 26-27, 2014)
- *Fourth* meeting (October 28-29, 2014)
- *Fifth* meeting (January 29-30, 2015)

Future meetings planned:

- *Sixth* meeting (April 30-May 1, 2015)
- *Seventh* meeting (August 10-11, 2015)
- *Eighth* meeting (December 7-8, 2015)
- *Ninth* meeting (March 21-22, 2016)
- *Tenth* meeting (June 20-21, 2016)

**Federal Advisory
Committees exist on a
2-year renewal cycle**

The existing
Commission *charter*
expires April 23, 2015

**DOJ plans to renew
charter (and include
digital evidence)**

Current NCFS Subcommittees

<http://www.justice.gov/ncfs/subcommittees>

where much of the Commission work occurs...

NCFS Subcommittee	# Commissioners	# Non-Commissioners
1. Accreditation & Proficiency Testing	7	15
2. Human Factors & Cognitive Bias	5	13+1
3. Interim Solutions	12	2
4. Medico-legal Death Investigation	6	9
5. Reporting & Testimony	13	8
6. Scientific Inquiry & Research	12	3
7. Training on Science & Law	8	6

Most Commissioners are on multiple subcommittees

57 non-Commissioners contributing to the process

Subcommittee products are discussed and voted on by the full Commission prior to be recommended to the Attorney General

February 3-4, 2014 was the first meeting of the **National Commission on Forensic Science**



37 Commissioners + DOJ/NIST Leadership Team
(with ~100 public attendees)

NCFS Meeting 1 Topics

February 3-4, 2014

- Introductions and review of everyone's expectations
- Welcoming remarks:
 - Speakers: James Cole, Patrick Gallagher, John Holdren
- Background presentations
 - Reflections on National Research Council 2009 report (Judge Harry Edwards)
 - Census of publicly funded crime laboratories (Matt DuRose)
 - Accreditation & certification (Patricia Manzolillo)
 - Proficiency testing (Dean Gialamas)
 - Research (Jeff Salyards)
 - Documentary standards (Gerry LaPorte)
- Announcement of the Organization of Scientific Area Committees (Mark Stolorow)
- Discussion and prioritization of Commission agenda
 - **Six initial subcommittees were formed**

No webcast or video archive are available for the first meeting

Webcast of Second NCFS Meeting

<http://www.nist.gov/forensics/national-commission-on-forensic-science-webcast.cfm>

National Commission on Forensic Science Meeting Part 1



So I'd like to welcome those who are viewing us via the Webcast.

02:55 / 02:00

English

NCFS Meeting 2 Topics

May 12-13, 2014

- **Panel on Cognitive Bias and Human Factors**
 - Speakers: Deborah Boehm-Davis, John Collins, Michael Risinger, David Kaye
- **Panel on Ethics and Forensic Science**
 - Speakers: Jamie Upshaw Downs, Rob Lesnevich
- OSAC update
 - Speakers: Mark Stolorow, Willie May
- **Subcommittee Reports and Priority Discussions**

NCFS Meeting 3 Topics

August 26-27, 2014

- Amended Bylaws Reviewed
 - **Vote passed on a directive to survey police forensic units**
- **Panel on Cognitive Bias and Human Factors**
 - Speakers: Itiel Dror, Bill Thompson
 - **New subcommittee on Human Factors was formed**
- **Panel on Latent Print Automated Fingerprint Identification System (AFIS) Interoperability**
 - Speakers: Melissa Gische, Austin Hicklin, Lauren Reed, David Russell
- **UK Regulator Andrew Rennison** shared lessons learned from the United Kingdom
- **Panel on Role of Accreditation in Forensic Science**
 - Speakers: Beth Mishalanie, Ross Randlett, Roger Klein
- **Subcommittee Reports**

NCFS Meeting 4 Topics

October 28-29, 2014

- **Subcommittee Reports & Work Product Discussion**
 - **Six draft work products discussed**
- OSAC and NIST Center of Excellence update
 - Speaker: Mark Stolorow
- Bureau of Justice Statistics Law Enforcement Agency Forensic Unit Survey Proposal (follow-up to previous meeting's directive)
 - Speakers: Erica Smith, Matthew DuRose
- Reviews of recently released reports
 - **Achieving Interoperability for Latent Fingerprint Identification in the United States (OSTP)**
 - Speakers: Tania Simoncelli, Laura Gerhardt
 - **Identifying the Culprit: Assessing Eyewitness Identification (NRC)**
 - Speakers: Thomas Albright, Judge Jed Rakoff

NCFS Meeting 5 Topics

January 29-30, 2015

- **Subcommittee Reports & Work Product Discussion**
 - **Four final work products discussed**
- Update on Bureau of Justice Statistics law enforcement agency forensic unit survey plans (Speaker: Erica Smith)
- **Panel on** documentary standards
 - Speakers: Gordon Gillerman, Warren Merkel, Karen Reczek
- **Panel on** judicial training
 - Speakers: Katheryn Yetter, Judge Jeremy Fogel, Judge Mark Atkinson
- **Presentation on** accreditation and certification within the MDI community
 - Speaker: Steven Clark

NCFS Meeting Materials Available

<http://www.justice.gov/ncfs/meeting-materials.html>

Meeting Summary

23 page pdf document

National Commission on
Forensic Science

Meeting Summary

May 12-13, 2014

Office of Justice Programs
810 7th Street NW, Washington, DC

Speaker Slides (pdf files)

2nd National Commission on Forensic Science Webcast

National Commission on Forensic Science Meeting...



Webcast
(>9 hours of
archived video)

MEETING TWO

References

Listing of 22 references provided to Commissioners

Human Factors and Cognitive Bias in Forensic Science

Deborah Boehm-Davis, Dean, College of Humanities and Social Sciences and University Professor, Department of Psychology, George Mason University

John Collins, President, Forensic Foundations Group

The Need for Sequential Unmasking

Michael Risinger, John J. Gibbons Professor of Law, Seton Hall University School of Law

David H. Kaye

Distinguished Professor of Law and Weiss Family Faculty Scholar, Penn State University, Dickinson School of Law



Commission Work Products

- The Commission is a Department of Justice Federal Advisory Committee and therefore **only has direct authority to make recommendations to the Attorney General** (who can direct efforts in three DOJ laboratories: FBI, DEA, and ATF)
- Work Product Types: (1) Views, (2) Directives, or (3) Policies

Voting is conducted electronically with a **two-thirds majority required to pass**



Website Postings of Draft Work Products

- A NCFS work products page:
<http://www.justice.gov/ncfs/work-products>
- Individuals wishing to submit written public comment regarding draft work products should do so by going to www.regulations.gov and entering a meeting-specific Docket No.
- Subcommittee work products are made available to Commissioners and to the general public at least 15 days before the next meeting and additional public comments can be provided 15 days after a meeting **(30 days total)**
- A GovDelivery system enables those registered to receive email notification when new work products are added

Commission Draft Work Products at Meeting 4

<http://www.justice.gov/ncfs/work-products>

1. Universal Accreditation (policy)
2. Scientific Literature (views)
3. Pretrial Discovery (policies & directives)
4. Expert Testimony (policies & directives)
5. MDI accreditation & certification (policy)
6. Terminology (Forensic Science defined)
(views)

Public comments are reviewed and input from Commissioners sought during NCFS meeting deliberations

Comments Received on Initial NCFS Subcommittee Work Products

Subcommittees decided on format, length, etc.

Document	Length	# Comments Received
Universal Accreditation (policy)	4 pages	21
Scientific Literature (views)	4 pages	9
Pretrial Discovery (policies & directives)	28 pages	37
Expert Testimony (policies & directives)	27 pages	40
MDI accreditation & certification (policy)	7 pages	16
Terminology (views)	2 pages	15
		138 comments

41 additional comments received (Nov 12 to 21)

Public comments provided to www.Regulations.gov (docket # DOJ-LA-2014-0006)

Final Documents Discussed and Voted on at Meeting 5 (January 30, 2015)

Through 30 day public review (and revisions made):

1. Universal Accreditation (policy) **65% in favor**; went back to subcommittee for minor revisions
2. Accreditation of Medical Examiner and Coroner Offices (policy) **100% in favor; approved**
3. Certification of Medicolegal Death Investigators (directive) **93% in favor; approved**
4. Scientific Literature in Support of Forensic Science and Practice (views) **100% in favor; approved**

Awaiting notice of Attorney General acceptance of the approved documents

New Draft Document Reviewed at Meeting 5 (January 30, 2015)

- **Inconsistent Terminology** (views document)
 - From Reporting & Testimony Subcommittee
- “It is the view of the NCFS that the forensic science community should endeavor to make terminology more consistent within a particular discipline and across disciplines... This document summarizes problems that result from the inconsistent use of terminology...”
- **Only 1 public comment was received from a Commissioner in the initial 15 days**
- **This document to be discussed further and potentially voted on at the next meeting**

Other Work Products Being Developed

- AFIS Interoperability
- Code of Ethics
- Proficiency Testing
- Probabilistic Statements
- Evidence Retention
- Judicial Training

Summary

- Five Commission meetings have been held to-date and meeting materials are available on the NCFS website
- Seven subcommittees are currently operating and include input from 57 non-Commissioners
- Progress is being made: one document has AG approval; three documents have been approved by the commission and five documents are under deliberation by commission.
- The Commission will be re-chartered and will include digital evidence

Thank you for your attention!



**National Commission on
Forensic Science (NCFS)**
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