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Forensic Science State Commissions and Oversight Bodies—A 2022 Update

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List of Acronyms

ASCLD	American Society of Crime Laboratory Directors
CSI	Crime Scene Investigation
DCDFS	District of Columbia Department of Forensic Science
DCJS	Division of Criminal Justice Services
DFS	Department of Forensic Science
DHMH	Department of Health and Mental Hygiene
DOJ	Department of Justice
DUI	Driving under the Influence
FOP	Fraternal Order of Police
FSC	Forensic Science Commission
FSSB	Forensic Science Standards Board
FSSP	Forensic Science Service Provider
FTCoE	Forensic Technology Center of Excellence
IG	Inspector General
IAAI	International Association for Arson Investigators
ILAC	International Laboratory Accreditation Cooperation
JAG	Justice Assistance Grant
MSP	Michigan Department of State Police
NamUS	National Missing and Unidentified Persons System
NAS	National Academy of Sciences
NFSC	National Commission on Forensic Science
NCSCCL	North Carolina State Crime Laboratory
NIJ	National Institute of Justice
NYCLAC	NY Crime Lab Advisory Committee
OFS	Office of Forensic Services
OIFS	Office of Investigative and Forensic Sciences
OSAC	Organization of Scientific Area Committees
RDT&E	Research, development, testing, and evaluation
SDO	Standards Development Organizations
TCJIU	Texas Criminal Justice Integrity Unit
WiDOJ	Wisconsin Department of Justice
WSCL	Wisconsin State Crime Laboratory

Executive Summary

Some states have established oversight bodies, including state forensic science commissions, task forces, oversight and advisory boards, or investigative councils that may improve the field of forensic sciences through oversight and coordination of forensic science resources¹. This report provides a review for states wishing to create and maintain a state forensic science oversight body. Recognizing the substantial differences that exist among states regarding governance, culture, statutes, and crime laboratory systems,² this report provides an overview of considerations in planning for and developing a state-level forensic science oversight mechanism.

Statewide oversight focuses on communication and collaboration among crime laboratories as well as public interest, allocation of resources, laboratory improvements, promulgation of accreditation and certification standards, investigations into misconduct or professional negligence, and other implementation and oversight issues.

Statewide forensic science oversight may play a positive role in forensic improvement by helping with the following:



Improving cooperation among forensic science laboratories and stakeholders;



Ensuring that national standards are implemented in practice, especially accreditation activities;



Coordinating state or grant funding to address areas of need, opportunities to implement technological, or operational innovations; and



Preventing or mitigating problems in forensic science laboratories or systems by serving in a role as investigator of misconduct or professional negligence.

¹ For the purposes of this report, state forensic science commissions are referred to as either “forensic science state commission” or abbreviated to “commission” in some instances. While forensic science state commissions are oversight bodies as well, this report collectively refers to an “oversight body” to represent other state governance bodies for forensic science, as well as referencing these directly as their given name (task forces, oversight and advisory boards, or investigative councils).

² Some state forensic science commissions (e.g., New York’s) also provide oversight to medicolegal death investigation forensic laboratories (i.e., medical examiner or coroner’s offices).

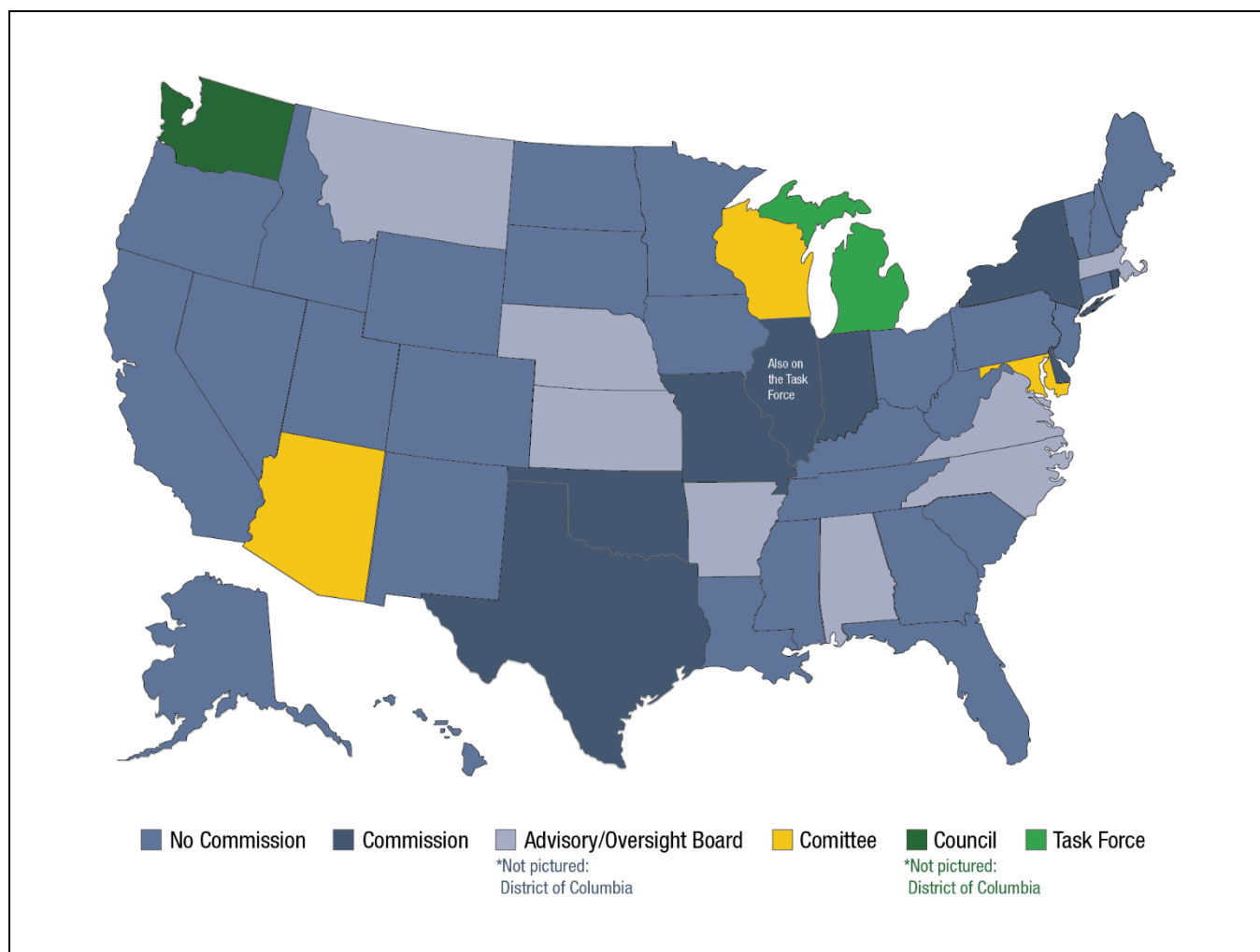


Exhibit ES-1. Map of Forensic Science State Commissions or Oversight Bodies. States with a Commission include Texas, Oklahoma, Missouri, Illinois (also on the Task Force), Indiana, New York, Rhode Island, and Delaware. States with an Advisory/Oversight Board include Montana, Nebraska, Kansas, Arkansas, Alabama, North Carolina, South Carolina, and Massachusetts. States with a committee include Maryland, Wisconsin, and Arizona. States with a Council include Washington and Washington, DC. States with a Task Force include Michigan. All other states have no commission.

Twenty-one states and Washington, D.C. currently have statutorily created or created by another means forensic science state commissions or oversight bodies (Appendix 1 and 2). All vary considerably with respect to which the functions they fulfill. Thirty states do not have a forensic science oversight body (i.e., inactive, only considered, not created). A planning process can determine elements that should be considered, including issues related to sustaining a forensic science state commission or oversight body, staff and funding allocations, membership, policies, and procedures.

Although this report is largely descriptive and details the experience of current and past forensic science state commission or oversight body activities from various states, it also presents lessons learned based on the experience of states that have established a forensic science state commission or other type of advisory board to address forensic science. Following the report, Appendices 1 and 2 provide specific details for each of the forensic science state commissions or oversight bodies currently in existence in the United States.

Overview

In the United States, many states have established forensic science oversight bodies, which take many forms and have myriad roles and responsibilities. In all cases, however, these forensic science oversight bodies help ensure complete, accurate, and timely evidence collection, forensic analysis, and transparent, efficient, and effective operation of publicly funded crime laboratories. In 2016, the National Institute of Justice’s Forensic Technology Center of Excellence (FTCoE) published a report, the *State Forensic Science Commissions*, to compile a review of the current state of oversight bodies that promote communication and collaboration among laboratories and stakeholders, assist with allocation of resources, seek laboratory improvements, promulgate accreditation, certification, and standards implementation, and investigate misconduct or professional negligence in crime laboratories, and other implementation and oversight issues.

This report updates the prior FTCoE report to review structure and existence of forensic science oversight bodies, roles, mission and vision, staffing, legislation and coordination and provides a general synopsis of considerations in planning for and developing a state-level forensic science commission or oversight body. Information in this report can assist states wishing to create and maintain state forensic science commissions and oversight bodies.

Methodology

This report is based on a review of state forensic science commissions and similar groups such as DNA review boards, task forces, or advisory boards. Throughout this report, “commission” and “oversight body” can refer to any type of advisory board, committee, council, or task force despite the formal or informal name as represented in statutes, state governing bodies, or criminal justice systems. Commissions or oversight bodies specific to cold cases, sexual assault forensic examination, coroner systems, or other specialized committees not generalized to all forensic sciences services are not reported in this report. Primary research of digitized reports, websites, state law databases, and state statutes were reviewed for information regarding state commission and oversight bodies. Interviews were conducted with staff or commission members from most existing state commissions and the District of Columbia; members of the U.S. National Commission on Forensic Science (NFSC); and staff from the Office of the Forensic Science for the United Kingdom, which oversees forensic laboratories in the U.K.

There are many documents and journal articles on the subject, which have been cited where appropriate, and statutes, annual reports, and other published documents from state commissions. Further documentation was gathered by attending in-person and online meetings of existing state forensic science commissions and from memorialized NFSC documents.

Impetus for Strengthening Forensic Sciences

Several national-level reports and efforts have targeted concerns and reforms to strengthen forensic science. In 2009, the National Academy of Sciences (NAS) report, *Strengthening Forensic Science, A Path Forward*,³ recommended a range of reforms, including changes in terminology, standards, administration, and scientific support. Other relevant academic papers⁴ and government reports include the 2014, Executive Office of the President’s Subcommittee on Forensic Science report, *Strengthening Forensic Science: A Progress Report* and the 2016 President’s Council of Advisors on Science and Technology’s report, *Report on Forensic Science in Criminal*

³ Id. See also, Melson, Kenneth, “Embracing the Path Forward: The Journey to Justice Continues,” *New England Journal on Criminal and Civil Confinement* 36 (2010): 197–232.

⁴ Giannelli, Paul C., “Wrongful Convictions and Forensic Science: The Need to Regulate Crime Labs,” *North Carolina Law Review* 86 (2008):163. See also, Neufeld, Peter J. “The ‘Near’ Irrelevance of Daubert to Criminal Justice and Some Suggestions for Reform,” *American Journal of Public Health* 95, S1 (2005): S107–13.

Courts: Ensuring Scientific Validity of Feature-Comparison Methods. Most recently, in 2019, National Institute of Justice (NIJ) published the Report to Congress: Needs Assessment of Forensic Laboratories and Medical Examiner/Coroner Offices.⁵ Alternatively, the 2014 Census of Publicly Funded Forensic Crime Laboratories found that the majority of crime laboratories are now accredited (88%), conduct proficiency testing (98%), and maintain a written code of ethics (94%) and written standards for employee performance (75%).⁶ In addition to these reports, DOJ in partnership with NIST created Organization of Scientific Area Committees (OSAC), which includes a Forensic Science Standards Board (FSSB), seven committees, 22 subcommittees, and five resource task groups to develop standards, guidelines, and best practices intended to improve quality and consistency within the forensic science community.

Context of Forensic Science Improvement

State forensic science commissions exist in a broader context of organizations that are designed to promote forensic improvement. Many professional organizations promote training, accreditation, and other activities for practitioners and leaders in the crime laboratory. For example, forensic professional organizations provide scientific and training conferences, publish journals, and contribute to the professional development of the forensic disciplines. Federal organizations include OSAC⁷ and the Scientific Working Group on DNA Analysis and Methods (SWGDM),⁸ which are national efforts to help develop and promulgate scientific documentary standards. For example, OSAC proposes and drafts standards that are sent to a Standards Development Organization (SDO)⁹ to be further developed and published. SDOs are responsible for publishing fully developed, consensus-based standards in forensic science. In general, these organizations promote standards but lack the ability to enforce implementation of them in laboratory practice.

Additionally, the NIJ is the research, development, and evaluation agency of the U.S. Department of Justice (DOJ), dedicated to improving knowledge and understanding of crime and justice issues through science.¹⁰ NIJ's FTCoE was established to support NIJ's research, development, testing, and evaluation (RDT&E) process in all areas of forensic science, including technology transition and knowledge transfer for the forensic science and criminal justice communities.¹¹ State forensic science commissions may play a key role in promoting innovations supported by NIJ's research program and identified by the FTCoE as promising for adoption into practice.^{12,13}

⁵ National Institute of Justice, *Needs Assessment of Forensic Laboratories and Medical Examiner/Coroner Offices*, Report to Congress, Washington, DC, U.S. Department of Justice, Office of Justice Programs, 2019, NCJ 253636. <https://www.ojp.gov/pdffiles1/nij/253626.pdf>

⁶ Burch, Andrea M., Matthew R. Durose, Kelly A. Walsh, and Emily Tiry, "Publicly Funded Forensic Crime Laboratories: Resources and Services, 2014," Census of Publicly Funded Forensic Crime Laboratories, Washington, DC, U.S. Department of Justice, Bureau of Justice Statistics, 2016, NCJ 250152. <https://bjs.ojp.gov/library/publications/publicly-funded-forensic-crime-laboratories-resources-and-services-2014>

⁷ The Organization of Scientific Area Committees for Forensic Science, National Institute of Standards and Technology (NIST), updated February 1, 2022, <https://www.nist.gov/osac/osac-news>

⁸ Scientific Working Group on DNA Analysis and Methods (SWGDM), accessed April 5, 2022, <https://www.swgdam.org/>

⁹ Currently, there are five SDOs that published consensus-based, forensic science standards: the [American Academy of Forensic Sciences Academy Standards Board \(ASB\)](#), [ASTM International E30 Committee](#), [American Dental Association \(ADA\)](#), [International Standards Organization \(ISO\)](#), and [National Fire Protection Association \(NFPA\)](#).

¹⁰ To learn more, visit the website for the NIJ: <https://nij.ojp.gov/about-nij>.

¹¹ National Institute of Justice funding application, "Forensic Technology Center of Excellence," grants.gov announcement number NIJ-2016-9087, posted February 23, 2016, <https://nij.gov/funding/Documents/solicitations/NIJ-2016-9087.pdf>

¹² Forensic Technology Center of Excellence, NIJ R&D Portfolio Management and Technology Transition Support U.S. Department of Justice, National Institute of Justice, Office of Investigative and Forensic Sciences, 2014.

¹³ Forensic Technology Center of Excellence, [Federal Forensic Science Research and Development Programs – A 2021 Update](#), Federal Investment, U.S. Department of Justice, National Institute of Justice, Office of Investigative and Forensic Sciences, 2021.

The Role of a State Forensic Science Oversight

Although national-level efforts can contribute to forensic improvement, state and local engagement is required because over 93% of forensic laboratory services are requested and provided by state and local laboratories.¹⁴ Several states have chosen to address the challenges faced by the forensic science community by creating state forensic science commission. To date, a total of 24 states and the District of Columbia have considered, enacted statutes, or at one time had a forensic science commission or oversight body as summarized in **Exhibit 1**. This means that more than half the states do not have a forensic commission or oversight body.

State/ Total	Active by State Statute	Active by Other Means	Inactive	Considered, but Not Established	No Record of Commission
State	AL, AR, DE, D.C., IL, IN, MD, MA, MI, MO, MT, NY, NC, OK, RI, TX, VA, WA	AZ, KS, NE, WI	MN	CA, NJ	AK, CO, CT, FL, GA, HI, ID, IA, KY, LA, ME, MS, NV, NH, NM, ND, OH, OR, PA, SC, SD, TN, UT, VT, WV, WY
TOTAL	18	4	1	2	26

Exhibit 1. Status of State Forensic Science Commissions and Oversight Bodies, May 2022.

A total of 18 forensic science state commissions or oversight bodies are currently operational through active state statutes (Appendix 1 and Appendix 2). Functioning on a smaller scale, state commissions can quickly identify and respond directly to issues. Furthermore, the working relationships among stakeholders fostered by state commissions allow them to address problems more proactively.

Although most state forensic laboratories are now accredited and have solid quality assurance programs in place, those are not always an absolute protection against challenges and crises¹⁵. Through customer engagement with the laboratory or by acting as a direct oversight body, commissions have served to augment the accreditation of laboratories in a way that they feel best suits the cultures and resources of their states.¹⁶ Many commissions permit citizens to register complaints about potential forensic misconduct or other issues within the crime laboratory system. These commissions, working with other government entities and stakeholders, can conduct thorough, independent reviews to identify the sources of problems and make comprehensive recommendations that address laboratory management or policy shortfalls. Such reviews have played a positive role in building public confidence in forensic science and the criminal justice community. Appendix 1 summarizes the responsibilities of each state commission as established and operating.

The value of a state forensic science commission is closely related to the importance of sound forensic practice to police, prosecutors, policymakers, and the public. Many state commissions were created in response to forensic errors that arose from laboratory negligence or misconduct.¹⁷ In these cases, policymakers have seen the formation of a state forensic science commission to mitigate potential future problems, including costs associated with settlements and damages from civil suits, which can be substantial.¹⁸ States have also used commissions to

¹⁴ Ibid.

¹⁵ SNA International. 2021. "DC Department of Forensic Sciences Laboratory Assessment Report." <https://dfs.dc.gov/sites/default/files/dc/sites/dfs/publication/attachments/DFS%20Forensic%20Laboratory%20Assessment%20Report.pdf>

¹⁶ Federal Bureau of Investigation, "The FBI DNA Laboratory Report: A Review of Protocol and Practice Vulnerabilities," press release, May 24, 2004, <https://archives.fbi.gov/archives/news/pressrel/press-releases/the-fbi-dna-laboratory-report-a-review-of-protocol-and-practice-vulnerabilities>

¹⁷ State Senator Juan Hinojosa, an early proponent and sponsor of the Texas legislation that created their commission, said:

"One of the ways to lose faith in the criminal justice system is to convict innocent people of crimes they did not commit using evidence that is unreliable, unscientific and pure junk science. In creating our commission, we wanted to ensure it was not politicized and that all stakeholders needed to buy in and share the same goals. We needed to focus on credible evidence based on valid and reliable scientific research to avoid wrongful convictions."

¹⁸ For a review of wrongful convictions and information on settlements and awards, see Cooley, Craig. M., and Gabriel S. Oberfield. "Increasing Forensic Evidence's Reliability and Minimizing Wrongful Convictions: Applying Daubert Isn't the Only Problem," *Tulsa Law Review* 43 (2007): 285.

conduct retroactive case reviews, such as in the case of hair microscopy, DNA mixture analysis and bitemark analysis.^{19,20} Forensic science state commissions or oversight bodies also provide recommendations for adoption and implementation of forensic science standards by laboratories and scientists, either in part or in full.^{21,22}



Using a Commission or Oversight Body to Engage Stakeholders

State forensic science commissions and oversight boards provide a forum for robust discussions between forensic science stakeholders to improve communication and coordination. Thus, membership typically includes most customers in the criminal justice system.²³ State forensic science commissions can serve in an advisory capacity and may work directly with formal or informal organizations of crime laboratory directors. For example, the New York Crime Lab Advisory Committee (NYCLAC), a group of laboratory directors, reports to the Commission on Forensic Science as needed, and the Chair of NYCLAC is a member of the Commission. If these oversight body and stakeholders' relationships work well, issues directly relating to science (as opposed to interpersonal issues) can be specifically directed to scientists.²⁴

Several jurisdictions have two commissions: a full commission involving lawyers (both prosecution and defense) and another smaller commission or working group comprising scientists.²⁵ Technical issues are discussed and resolved by the scientific group, whereas issues affecting the criminal justice system are discussed and resolved by the full commission. Additionally, several states have broadened their knowledge base by including technical experts from other states.²⁶ Often, commissions include the agency heads who oversee forensic services. As one crime laboratory manager said, "This gives me at least a couple of hours every quarter to discuss my lab—I wouldn't have this opportunity without his [agency head] being on the commission." In another case, a law enforcement stakeholder learned a great deal by reviewing materials in preparation for commission meetings.



Using a Commission or Oversight Body to Coordinate Resources within a State

Forensic science state commissions may promote cooperation and coordination across multiple forensic providers with varying jurisdiction. These activities may include training, certification, accreditation, and standards implementation to establish a foundation for a consistent level of forensic work.²⁷ A commission may be used to coordinate resource allocation, eliminate duplication of services, or provide a mechanism to allocate resources

¹⁹ Federal Bureau of Investigation, "FBI/DOJ Microscopic Hair Comparison Analysis Review," accessed April 5, 2022, <https://www.fbi.gov/services/laboratory/scientific-analysis/fbidoj-microscopic-hair-comparison-analysis-review>

²⁰ Texas Judicial Branch, "Texas Forensic Science Commission: Discipline Specific Reviews," accessed April 5, 2022, <https://www.txcourts.gov/fsc/discipline-specific-reviews/>

²¹ Texas Judicial Branch, "Texas Forensic Science Commission," accessed April 5, 2022, <https://www.txcourts.gov/fsc/>

²² NIST, "Texas Forensic Science Commission Recommends Crime Laboratories Adopt OSAC Registry Standards," updated November 22, 2019, <https://www.nist.gov/news-events/news/2019/11/texas-forensic-science-commission-recommends-crime-laboratories-adopt-osac>

²³ When serving as President of the American Academy of Forensic Sciences (AAFS), Joseph P. Bono wrote, "The best way to maximize the probability for success in strengthening the forensic sciences is for interested parties across the scientific, legal, and academic communities to find common ground and build upon it." (In "The Blame Game Has Run Its Course, Strengthening Forensic Science Investigation," *Texas Bar Journal* 74 no. 7 (2011): 592–96.)

²⁴ Peter Marone, who served as the Chairman of CFSO in 2008, testified before the U.S. House Subcommittee on Crime, Terrorism, and Homeland Security. In his comments discussing the mixture of scientists and stakeholders serving on state oversight commissions, he stated: "The key to appropriate and proper oversight is to have individuals representing the stakeholders, but that these individuals must be there for the right reason, to provide the best possible scientific analysis. There cannot be any room for preconceived positions and agenda-driven positions." *Supra* note 4 at 28.

²⁵ Another example of this is the DCDFS. D.C. Law § 5-1501.01 et seq., which provides for the Department's director to work with two boards. The Science Advisory Board, which consists of nine voting members, must include five scientists with experience in scientific research and methodology, including a statistician and someone with quality assurance experience. Four other members must be forensic scientists. This Board reviews all reports of allegations of professional negligence and misconduct, program standards and protocols, the quality and timeliness of services and future programs. The Stakeholder Council includes the Deputy Mayor for Public Safety and Justice, public safety and health officials, prosecution and defense attorneys. This Council focuses on the effectiveness and delivery of services and advises the Mayor and City Council..

²⁶ North Carolina and Virginia.

²⁷ NIST, "Texas Forensic Science Commission Recommends Crime Laboratories Adopt OSAC Registry Standards," updated November 22, 2019, <https://www.nist.gov/news-events/news/2019/11/texas-forensic-science-commission-recommends-crime-laboratories-adopt-osac>

within a discipline that requires expensive equipment or specialized experts. These efforts may incorporate broader resource considerations, such as cooperation to address backlogs or incorporate new methods.²⁸

This cooperation may extend to allocation of grant funding and conformance with federal grant requirements. For example, Coverdell requires an entity in each state to provide independent investigations of laboratory problems. State commissions are familiar with and knowledgeable about crime laboratory management and practice and can take on an investigative role using this previously established body of knowledge.²⁹



Using a Commission or Oversight Body for Outreach from the Forensic Science Community

The development of close working relationships among interested parties is valuable to members of commissions, laboratory directors, and other professionals who routinely work with them. Particularly noteworthy is the ability of the defense bar to have a comfortable relationship with crime laboratory managers. If professionals who usually engage in relatively adversarial relationships work together to develop standards and protocols, some issues that might have been litigated can be resolved through commission discussions.³⁰

Having a forensic science commission can elevate the visibility and understanding of crime laboratory work within the criminal justice community. Additionally, if a commission functions at a high level of transparency, the public and other associated organizations working with the criminal justice system will gain a better understanding of forensic science and the FSSP systems. In most cases, these efforts extend to engagement with policymakers and other decision-makers who have an interest in forensic science practice in their state. Through educational activities, the state commission can play a positive role in improving the widespread understanding of key issues.

ASCLD, North Carolina, Virginia, Idaho, and many others have an annual Forensic Science Week³¹, during which events are conducted to increase the community's understanding of forensic work. These activities are intended to produce a realistic view of forensic work among colleagues and the public in contrast to media portrayals.³²



Using a Commission or Oversight Body to Improve Public Confidence

State commissions may improve public confidence by establishing risk prevention and mitigation strategies for laboratory operations. The commission's oversight role may include the establishment of standards or best practices within the state laboratory system. Relevant strategies have been identified by forensic science manager associations at both the federal (Council of Federal Forensic Laboratory Directors [CFFLD]) and state and local levels (ASCLD). These strategies include the following:

- Accreditation;
- Clear and specific policies and protocols that are periodically reviewed;
- Competency testing and evaluation;
- Discipline certification;

²⁸ State of Illinois, "Appointments: Illinois Board, Commission, Task Force and Council List. Forensic Science Task Force," accessed April 5, 2022, <https://www2.illinois.gov/sites/bac/SitePages/AppointmentsDetail.aspx?BCID=1208>

²⁹ For a discussion of policy considerations regarding oversight and the role of a state entity suitable to satisfy the Coverdell requirement, see Laurin, Jennifer E. "Remapping the Path Forward: Toward a Systemic View of Forensic Science Reform and Oversight," *Texas Law Review* 91 (2013):1051–118.

³⁰ Customers can be considered both upstream users who make preliminary decisions regarding forensic evidence and what should be analyzed and downstream users presenting forensic evidence in a judicial setting. See Id at 1076. For a discussion of the risk associated with upstream evidence collection, see Horvath, Frank, and Robert Meesig. "The Criminal Investigation Process and the Role of Forensic Evidence: A Review of Empirical Findings," *Journal of Forensic Sciences* 41 (1996): 963–69.

³¹ National legislation has addressed Forensic Science Week: <https://www.congress.gov/bill/116th-congress/senate-resolution/320/text>.

³² Shelton, Donald E., "The 'CSI Effect': Does It Really Exist?" *National Institute of Justice Journal* 259 (2008): 1-7.

- Hiring practices and background investigations;
- Outreach to customers, particularly relating to evidence priorities and backlogs;
- Periodic internal and external proficiency testing;
- Resources (federal/state/local) targeting to maximize efficiency and coordination and avoid duplication;
- Rigorous quality assurance programs with dedicated managers;
- Sufficient personnel and equipment;³³
- Training; and
- The existence of a direct working relationship among jurisdictional agencies.

Statutorily Created State Forensic Science Commissions or Oversight Bodies

Currently, only 16 states³⁴ and Washington, D.C. have a legislatively created commission to provide support, guidance, or oversight to state and local crime laboratories. In general, these commissions seek to address “... wide variability in capacity, oversight, staffing, certification, and accreditation...” within forensic laboratory systems.^{35,36} In some cases, commissions have followed working groups established by crime laboratory directors that include criminal justice entities to address customer needs on an ad hoc basis. In such situations, the creation of state commissions may provide more permanent and recognizable entities that are more inclusive of organizations outside of forensic science.³⁷

In general, there are two primary models. Most state commissions work with the primary Forensic Science Service Providers (FSSP): the state crime laboratory system. These commissions often provide customer (user agency) feedback and may have a large scientific membership to review protocols and methodologies. Virginia and Washington, D.C. have two commissions, one to address FSSP and its parties of interest. Other states (e.g., Maryland, Missouri, New York, and Texas) oversee numerous state and local laboratories and focus more on oversight, accreditation, and licensing. See Appendix 2 for more details on each state commission, its structure, and its statutory authorization.



Planning for a State Forensic Science Commission or Oversight Body

This review of existing and dormant state forensic science commissions provides some valuable lessons for states considering creating a commission. Several commissions appear to have discontinued because of a lack of funding and support. In other cases, commissions continue but lack the full range of authority necessary to meet the needs of forensic science oversight. For states considering creating a commission, one valuable strategy is to create a state forensic science *planning* commission to help determine legislative needs, membership, and operational support, which may be achieved through legislation. Such an effort could require 1 to 2 years to accomplish; however, it would ultimately help set up the standing commission for success.

The responsibilities and duties of existing commissions, developed by both statutory language and practice, include a wide range of activities, and the statutory language varies considerably. In general, these duties are

³³ NAS Report, supra note 5, at 77.

³⁴ Arkansas, Delaware, Maryland, Missouri, New York, North Carolina, Texas, Virginia, Rhode Island, and Washington.

³⁵ NAS Report, supra note 5, at 14.

³⁶ In this paper, the term “accreditation” is used to refer to accreditation gained from Accreditation entities, including the American Association for Laboratory Accreditation (A2LA) and American National Standards Institute-American Society for Quality (ANSI-ASQ) National Accreditation Board (ANAB).

³⁷ Prosecutors are also being encouraged to create Customer Working Groups. See Hamann, Kristine, “Customer Working Groups – Benefits for Directors of Public Forensic Laboratories,” *ASCLD Executive Education Digest* 3 (2014): 64–66.

framed to support a commission overseeing one primary state laboratory system or aspects of multiple state and local laboratories within its jurisdiction. In the former, the commission tends to serve in an advisory capacity to the director of the state laboratory and often has fiscal responsibilities. In contrast, in the latter, the commission tends to be more involved and to have some level of oversight and pursues ongoing engagement with laboratories to identify issues for which mitigation measures may be helpful statewide. The planning process should include careful deliberation concerning the scope of responsibilities, duties, and independence of a new state forensic science commission.

The planning process represents an opportunity to involve criminal justice, legislative, and forensic science professionals (e.g., law enforcement, scientists, legal, advocate) in state commissions from the very beginning and, thus, foster buy-in and ensure that the commission is designed to meet the needs of the community. A planning commission also permits appropriate stakeholders to educate themselves on other states' models and identify issues important to their state.³⁸ The planning effort produces recommendations for the standing commission, including legislative authority, membership, staffing, and other support.

This planning group should educate themselves about other commissions and survey existing forensic science laboratories. If oversight responsibilities are recommended, crime laboratory directors and personnel will want input into the process so that their concerns are addressed.

The planning commission should focus on the collection of relevant data concerning forensic science services in the state. In addition, states interested in creating a forensic science state commission would benefit from technical assistance at a national or regional level, such as best practices, model policies and procedures, and guided discussions during planning efforts to identify how best to meet specific states' needs. **Exhibit 2** includes opportunities to make this a public process that promotes discussion prior to drafting legislative language to create a standing forensic science commission or oversight body.

³⁸ State of Illinois, "Appointments. Illinois Board, Commission, Task Force and Council List. Forensic Science Task Force," accessed April 5, 2022, <https://www2.illinois.gov/sites/bac/SitePages/AppointmentsDetail.aspx?BCID=1208>

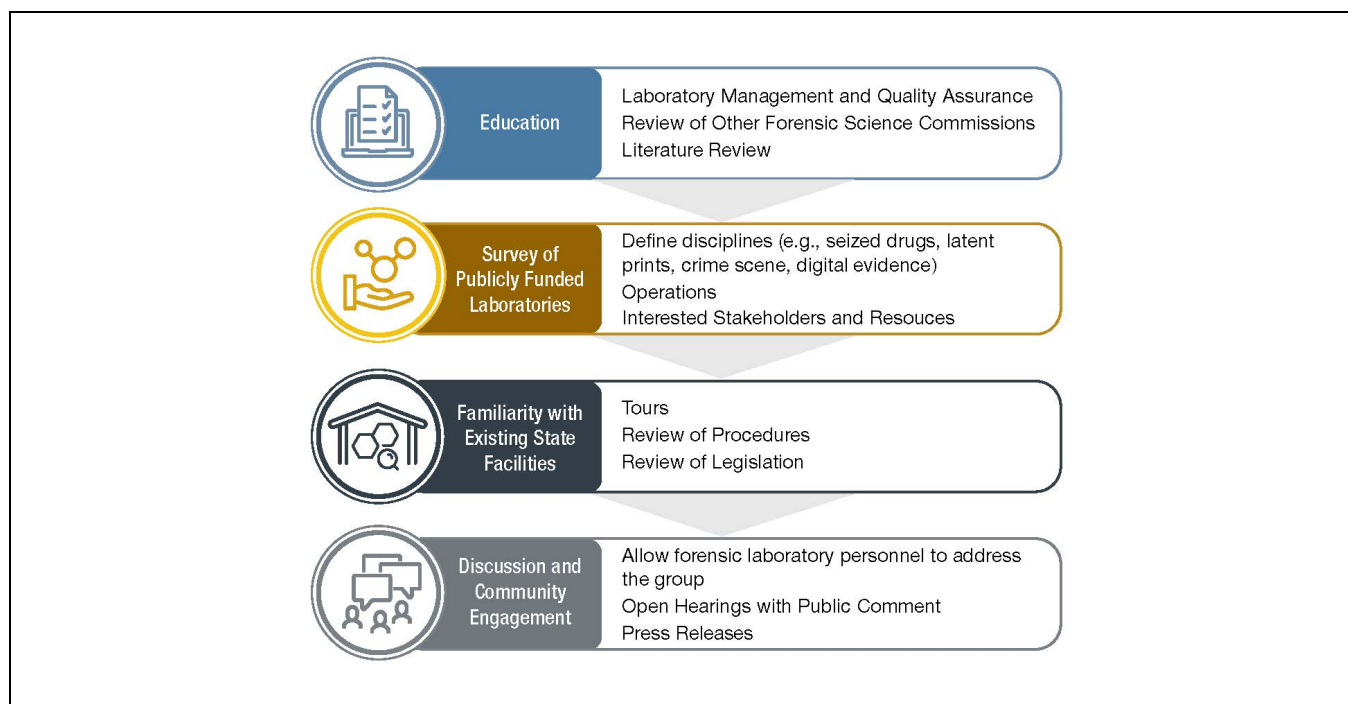


Exhibit 2. Making A State Forensic Science Commission or Oversight Body A Public Process.



Legislative Models

Successful commissions rely on legislative language that provide clear direction concerning the scope of members' responsibilities. In Appendix 2, the reader can access citations to the enabling legislation for current forensic science commissions. Virginia, Washington, North Carolina, Rhode Island, and District of Columbia have jurisdiction-wide laboratories. The guidance provided to the state laboratories regarding methodologies comes from technical groups (e.g., Virginia's Scientific Advisory Committee and North Carolina's Forensic Advisory Board), and the commission may provide budgetary oversight (District of Columbia).³⁹ A commission should distinguish between its agency oversight authority and the need for a laboratory director to manage daily personnel operations.

The enabling statute should have language that provides for rule-making authority when the commission's duties include the investigation of complaints, accreditation, or certification/licensure. Typically, states will require the commission to provide an annual report, which can be a mechanism to advocate for additional resources or other legislative action.

At a minimum, the statute should describe the composition of the commission. When membership is contingent on holding a specific office, it should be recognized that continuity can be disrupted if too many members' appointments are subject to political changes. The Texas statute has undergone close legislative scrutiny and multiple amendments and may provide a useful example.⁴⁰ The statutory authorization for all existing commissions with additional background is provided in Appendices 1 and 2.

³⁹ Washington State Legislature. Revised Code of Washington. RCW Chapter 43.103.030, 2005.

⁴⁰ Texas Forensic Science Commission, *Fifth Annual Report*, 2016, <https://txcourts.gov/media/1440352/fsc-annual-report-fy2016.pdf>

Membership Considerations

Most frequently, commission members are determined by gubernatorial appointment. In a few states, appointments are made by the Attorney General. To minimize the role of political considerations, statutes may require specific qualifications for appointees. Often, prosecution or defense members can be nominated by their professional organizations. Appointments can also be tied to areas of expertise in forensic science. Academic members are often appointed by the dean of their institutions, whereas law enforcement members are typically nominated by their departments or professional associations. Statutorily defined qualifications permit the governor to know who may most effectively serve on a commission and may allow a nominating organization to have meaningful input. The request for nominations further provides an opportunity for the represented organizations to learn about the commission's work. Under this nomination structure, the appointed member periodically reports back to their organization, increasing the visibility of the commission, establishing useful lines of communication, and enhancing ultimate buy-in to the commission's work.

The composition of a commission should relate to the functions for which it has been established. Most commissions will include forensic scientists, non-forensic scientists, advocates and public service entities to be effective, either on one large commission or one or more smaller working commissions/boards/subcommittees. New York's 14-member commission, which has a general responsibility to ensure accreditation across all forensic science laboratories, also has a distinct DNA subcommittee to oversee the accreditation of DNA laboratories and make binding recommendations to the full commission.⁴¹

Numerous commission members and staff stress the importance of a shared vision among members. Legislative provisions for term limits, reappointment, and restrictions on reappointment are designed to improve the long-term engagement and focus of commission members. Both continuity and occasional new members are needed to maintain commissions' effectiveness. Another relevant protection to consider is establishing a requirement that members provide a financial disclosure to minimize the potential for conflicts of interest.

Appendix 2 summarizes the membership of current state forensic science commissions. The chart does not cover every member in every state but provides a picture of common representatives.



Specific Stakeholders and Partners

Key individuals to consider for commission membership and working partnerships associated with commissions (e.g., subcommittees, working groups, case review committees, and investigative panels) include the following:

- Crime Laboratory Directors—Although only a few laboratory directors may serve as voting members of a commission, forensic science leaders should attend all state commission meetings. This expertise is necessary to review and facilitate the adoption of specific methodologies and protocols.
- Medical Examiner/Coroner—This individual is the central figure in any death investigation and often manages both their office and the toxicology laboratory in their facility.
- Prosecutor—This person can be either the elected/appointed prosecutor for a jurisdiction or an assistant but must have strong interest in and experience with forensic science.⁴²
- Defense Attorney—Like with prosecutors, this person must be willing and able to engage on forensic science issues.

⁴¹ New York Executive Law § 995-b (2-a).

⁴² Several prosecutors' offices are already engaged in forensic issues and have created Conviction Integrity Units. These prosecutors are well positioned to engage with the work of forensic science commissions.

- Law Enforcement—These individuals bring a customer perspective and may also represent various crime scene and latent print units that work outside of laboratory environments. Ideally, they would also be experienced in many collaborative efforts and community outreach.
- Judiciary—These individuals may be active or retired. Often, active judges have not participated in forensic science commissions because of ethical considerations. However, a recent change in judicial ethics has clarified that a judge can play an important role regarding the administration of justice.⁴³
- Academics—Individuals who are affiliated with academic institutions can provide a wealth of knowledge and resources. Their valuable contributions can include research, input, and guidance with respect to protocols and methodologies and student volunteer assistance with case reviews and research.⁴⁴ Independent academic scientists contribute different and valuable perspectives. Nominations can be made by the deans of institutions.
- Criminal Justice Agencies—These may include the state administrative agency that acts as the conduit for federal block grants (including Coverdell grants). In Virginia, a member from the Virginia State Crime Commission, whose ability to access a prisoner database represents a useful resource, is included. Criminal justice participation is critical when, for example, the commission is developing notification protocols regarding results of discipline-specific case reviews, such as those being performed on hair microscopy in numerous jurisdictions.
- Departments of Public Health—These agencies are generally responsible for the accreditation of public laboratories and are very experienced with quality assurance programs.
- Legislators—These individuals are important during the planning stages and can pave the way for needed legislation. Identifying legislators with a background and specific interest in forensic work is critical. In Texas, interested legislators were engaged early in the process of creating the Texas Forensic Science Commission (TFSC) and have updated the statute to address emerging needs.⁴⁵



Other Less-traditional Members and Partners to Consider

- Allied Professionals—Health professionals who provide care and expertise in a forensic setting such as physicians, nurses, dentists, and emergency response providers.
- Statistician—This position is becoming increasingly crucial as research on the validation of methodologies and computation of error rates continues. The OSAC process includes a statistics Task Group as a resource group at the FSSB level, so it may be advisable to have that type of expertise available to a state forensic science commission. Academic institutions may be good sources for the recruitment of such members.
- Risk Management—The person with this responsibility should be able to work with and provide aid and resources to governmental agencies. A crime laboratory may not always keep up with international standards (e.g., ISO 17025) with respect to its equipment, maintenance, facilities, or staffing levels. Any of these may create deficiencies in supervision or quality assurance and thereby put the system at risk. Risk managers can help agency heads identify these risks and at times can provide the funding and resources necessary to minimize them.

⁴³ See Hammond, Larry A., “The Failure of Forensic Science Reform in Arizona,” *Judicature* 93 (2010, May): 227–30.

⁴⁴ The National Clearinghouse for Science, Technology and the Law is administratively located at Stetson University College of Law in Florida. One of its primary functions is to create and maintain a database of forensic science research, which is done primarily by students who receive credit for the work. The Virginia Forensic Science Board also makes use of students to conduct preliminary work on discipline-specific case reviews.”

⁴⁵ Texas State Senator Juan “Chey” Hinojosa (D-McAllen) is an example of someone who offers legislative involvement. He has been a leader in strengthening forensic services and sponsored HB-1068, which created the TFSC. He has law enforcement experience. Another example, the Delaware Forensic Science Commission benefits from the engagement of the chairs of the Safety and Homeland Security Committees of both houses.

- Victim Assistance Representative/Advocates—This person can provide an important voice and perspective, particularly when commissions undertake historical case reviews. This type of review may require notification of the parties involved in a case that has already been adjudicated. Victim assistance professionals have the relevant experience for these activities.
- Librarian—Some librarians have expertise in forensic science and in teaching professionals how to perform forensic science research. Although each state may not have access to librarians with such knowledge, relationships could be established with librarians associated with law schools.⁴⁶

Staff and Coordination



Budget, Staff, and Partners

Everyone working with a state commission who was interviewed for this report believes that a dedicated budget and staff are necessary for the commission to examine forensic services statewide and ensure the level of effectiveness and efficiency required by our criminal justice system. At times, the commission must be able to respond appropriately and quickly to investigate issues. This may also mean hiring discipline-specific experts to assist in investigations or series of case reviews.

Staff will be needed to develop and disseminate commission documents, support meetings, and manage a commission web presence. Commission members may incur costs for meetings, inquiries, and other commission business. Although these expenses may not be formally captured under the commission budget, the resource expenditures are real and should be anticipated.⁴⁷

Many commissions operate with minimal budgets to cover members' travel costs, staff support, website expenses, and investigative expenses. Others, such as the TFSC, have dedicated budgets and staff. Established in 2005, the TFSC was set up as an independent body but was administratively placed within Sam Houston University for budgetary purposes. Initial funding of \$250,000 was established in 2007 and provided for a coordinator. There is currently a staff of six, which increased from four with added responsibilities of the accreditation and licensing of analysts, which has been required in Texas as of 2019. In fiscal year 2021, the annual budget for the TFSC was \$563,900 with an additional \$153,000 that was made available in collected licensing program fees.⁴⁸ The sustained work of the TFSC can most likely be attributed to a variety of factors. However, its funding and its ability to hire dedicated staff from the beginning have certainly contributed.

When the New York State Commission on Forensic Science was established in 1994, it was administratively placed within the New York Division of Criminal Justice Services (DCJS). The head of DCJS is legislatively designated as the chair to ensure Commission activities are executed. Simultaneously, New York formed the Office of Forensic Services (OFS) within the DCJS to provide staff support for the Commission. OFS is also charged with maintaining the DNA database. Several members of that Commission reported that for several weeks prior to their quarterly meeting, OFS staff expend great effort to prepare for the meeting. Staff gather, prepare, and provide all necessary

⁴⁶ "The law librarian is poised to provide resources, create partnerships, and help resolve complex legal research problems." (Billie Jo Kaufman, Law Library Director and Professor of Law, Mercer University School of Law).

⁴⁷ Every commission meeting observed included attendees in addition to the commission members and staff, including general counsel for agencies, most crime laboratory managers in the state and other customers (e.g., analysts, lawyers, and criminal justice agency personnel) working directly or indirectly on commission subcommittees and projects. This type of attendance can promote effective and efficient communication.

⁴⁸ Eighth Annual Report. December 2018–November 2019. Texas Forensic Science Commission—Justice Through Science.
<https://www.txcourts.gov/media/1445412/fsc-annual-report-fy2019-pdf.pdf>

documents and materials for each member of the Commission. In addition, if a complaint is filed regarding an analyst's misconduct or negligence, OFS conducts the investigation.

Like NY, often staff members aid commissions in addition to their other duties. Although such staff may assist in initiating planning efforts, dedicated full-time staff may be needed to supply the ongoing support needed by commissions and communication with members, interested professionals, and the public.

Both California and Minnesota had a commission or task force, but they were discontinued because of a lack of budget and staff, among other issues. The Minnesota Forensic Laboratory Advisory Board published its last report in January 2011 but has not met for several years because of an absence of funding and staff. In 2012, the California Forensic Science Task Force published its recommendations and planned to publish a follow-up report regarding implementation the following year. Neither the task force nor a standing commission have been funded.

General Counsel

Based on first-hand observations of commission meetings and activities, an actively engaged general counsel can help the commission establish a solid reputation and generally contribute to the commission's success. First, they can provide important legal guidance to the commission and therefore help keep it on track, effective, and efficient. In addition, they can act as a conduit for reliable communication among all concerned parties. This helps the commission establish a reputation for accessibility and develop credibility with the judiciary and stakeholder associations (e.g., prosecutors, public defenders).

A state commission may obtain legal advice from the Office of the Attorney General for the state. The individual providing this advice may be a single Assistant Attorney General who will have numerous other clients and demands on their time. That individual may not have any forensic science background. Certainly, this person will provide legal advice regarding matters of statutory interpretation. Over time, if the assigned assistant works closely with the commission, can participate in educational opportunities, and gains a solid foundation in forensic science and crime laboratory issues, they could become a real asset.

The TFSC employs a general counsel that works closely with the judiciary, including Court of Criminal Appeals Judge Barbara Hervey and other stakeholders in the criminal justice community to facilitate training opportunities for both forensic analysts and lawyers in the state.

The general counsel to a state's primary forensic science laboratory may play a similar role as the general counsel to a commission. For instance, the General Counsel to the Virginia DFS is involved with the state's Forensic Science Board, the Scientific Advisory Committee, and numerous subcommittees involved with the Board's work. The Virginia DFS General Counsel acts as the face of the department with the public and professional organizations, speaking at judicial and attorney conferences about the work of both the department and of the board. The Arkansas State Crime Laboratory has also added a general counsel to its staff stating a similar role.

Role of the Inspector General

Some states have an Office of the Inspector General (IG). This office may, by statute, be responsible for complaints relating to state forensic science laboratories. Consideration should be given to developing an appropriate relationship between the IG and commission. Often, an IG's office will lack the expertise to perform investigations into technical matters in the forensic laboratory. The relationship between the state forensic science commission and the IG's office should be considered in the planning process to clearly define respective

roles and responsibility for investigation. For example, New York’s IG has conducted investigations into allegations of professional misconduct and negligence of a forensic laboratory and established contracts with external experts to support investigations.

Administrative Home

A commission should be independent, but an administrative home can be beneficial to limit the infrastructure needed to support commission staff and activities. The TFSC is an independent agency, but it is administratively attached to the Office of Court Administration (OCA). The Office of Court Administration is a unique state agency in the judicial branch that operates under the direction and supervision of the Supreme Court of Texas. OCA provides budgeting, human resources, and other administrative support. This administrative home also represents a valuable partnership with judiciary for research, training and other opportunities.

Maryland’s commission is located within the Department of Health and Mental Hygiene, Office of Quality Control. This state entity has experience with clinical laboratories and is currently developing ties with the forensic community.

Other commissions are structured within state administrative agencies that oversee federal Justice Assistance grant monies or within existing state laboratory or Attorneys General Offices. A commission should be located where it has the necessary support and opportunities to access valuable partners and is sufficiently neutral to establish its credibility and independence.

Policies and Procedures

A state forensic science commission will require the adoption of policies and procedures to govern its work. Policies and procedures may cover internal processes regarding the development of standards, protocols, and methodologies and commission oversight priorities. Clear structure and direction are critically important for oversight responsibilities. In particular, the complaint and investigation processes must be transparent to ensure public confidence in the review of reports of misconduct. Policies and procedures provide structure and guidance to members and the commission chair regarding their roles and responsibilities and the order of business of meetings. Roberts Rules of Order or another meeting management system may be required by the state or adopted by the commission.

Procedures should be developed early in the process of creating a commission and should include any state requirement regarding open meetings and necessary publications, expectations for meeting agendas and minutes, and how public input may be obtained by the commission. The issue of confidentiality also needs to be clarified. Certain personnel matters must remain confidential, at least during the pendency of an investigation. However, in general, commission meetings should be public. This issue is one reason why having a general counsel is helpful for a commission. During any meeting, a person must be available to provide guidance on matters that may require closed sessions.

The TFSC Policies and Procedures represent a working model that has been updated every few years as the Commission takes on additional responsibilities. Official administrative rules related to the Commission’s procedures are published in the Texas Administrative Code, Chapter 651.⁴⁹

⁴⁹ Tex. Admin. Code § 651 (2015).

The Need to Educate Members

Before a commission tackles any of its responsibilities, sufficient time should be set aside to educate its members. The members of a forensic science state commission (or planning effort) will come to the table with various levels of knowledge and experience. Although specific training is not identified, the Rhode Island State Crime Laboratory Commission requires new members to be trained within 6 months.⁵⁰

Training areas should include ethics, quality assurance, the accreditation process, the certification of analysts, and contemporary issues facing forensic science (e.g., cognitive bias, lack of foundational research in some disciplines). Tours of the forensic laboratories within a state may also be considered to provide familiarity. Other interested parties may be included in these training sessions, such as the following:

- Crime lab managers or supervisors;
- General counsel to agencies that operate a laboratory;
- Assistant attorneys general who will work with the commission;
- Legislative members on committees responsible for criminal justice;
- Representatives from any state agency responsible for criminal justice grants; and
- Prosecutors and public defenders likely to work with the commission.

Annual Report

Publishing an annual report demonstrates to the public that a commission is involved and effective. Several existing commissions (e.g., Missouri, Virginia, and Texas) are required by law to provide an annual report. Other commissions may publish such a report as a matter of practice or post their meeting minutes on agency websites (e.g., Michigan, Illinois). Such documentation is valuable because (1) it provides beneficial information to the appointing authority (often the governor) and informs the appropriate legislative members of the commission's work; (2) it helps inform agency heads and interested members of the community and represents a critical part of the commission's transparency; (3) it permits members of the commission to observe progress in a very specific way and helps to orient new members; and finally, (4) it can serve to support requests for appropriate funding for crime laboratories.

Website

Having a dedicated website elevates a commission's visibility and transparency and provides the public with easy access to information. Features of a helpful website include accessibility (i.e., easy to find); general description of the commission (i.e., structure, vision, mission, policy/procedures); information about upcoming meetings; live streaming of current meetings and archived videos of prior meetings; details of the complaint process, including a downloadable complaint form; availability of final reports upon investigation completion; and list of commissioners and relevant points of contact.

Meeting Schedule and Commission Maintenance

Enabling statutes generally provide minimum meeting requirements (often quarterly) for commissions. States can consider having meetings at different laboratories, particularly early during the planning effort, to assist in

⁵⁰ R. I. Gen. Laws, Title 12 Criminal Procedure, § 12-1.1-8. (2006)

member education. Some commissions stream meetings on a website and archive the recording to maximize engagement with other professionals and interested community members. Some commissions (e.g., New Mexico) will allow additional meetings if the membership requests it. These avenues encourage greater involvement by other stakeholders and the community and add to the perception of transparency.

Although reimbursement of actual or per diem costs is often provided, most statutes do not permit additional monetary compensation. Developing a consistent meeting schedule, selecting meeting locations with ample parking, limiting the length of meetings, providing materials in advance, and giving members the ability to attend meetings by telephone are all aspects that have helped with continuity, engagement, and members working well together.

Commission or Oversight Body— Vision and Mission

Values

Consistent themes regarding the composition of commissions and their values are summarized below. Through interviews with FTCOE, broadly expressed thoughts of commission members include the following:

- Members must commit to work on a common mission, not their own self-interest.
- Transparency and confidentiality must be balanced as necessary and appropriate.
- Participation in the commission cannot be for personal gain.
- Trust and respect are critical.
- The overriding goal must be what is best for forensic science.

“For our Commission or any Commission on Forensic Science to be effective, it is essential that members of the commission be prepared to come to the table with a willingness to put any personal agendas and allegiances aside and work with others.”

— Richard Alpert, Adjunct Professor, Baylor University in Waco
former Assistant Criminal District Attorney,
Tarrant County and former commissioner, TFSC

These are the hallmarks of a valuable and effective commission. The state legislature or appointing authority may choose to establish key values for the commission’s business to contribute to a long-term vision that guides the members.



Transparency

Transparency is an important element in building confidence among the public and the criminal justice system regarding the professional and objective forensic work performed in a state. Indeed, it permits anyone who is interested to be informed and follow the work of a commission, observe the actual discussions on issues, and see what corrective actions are taken. It provides a mechanism to assure the community that the commission has real substance.

However, merely stating that the process will be transparent is not sufficient, and there are numerous aspects and levels of transparency. For example, transparency will often mean some online presence for the commission, including publications, web broadcast and archive of meetings, and accreditation information. **Exhibit 3** is a continuum of transparency in the context of a state commission, beginning with posting of meetings and agendas and moving to higher levels of perceived transparency.

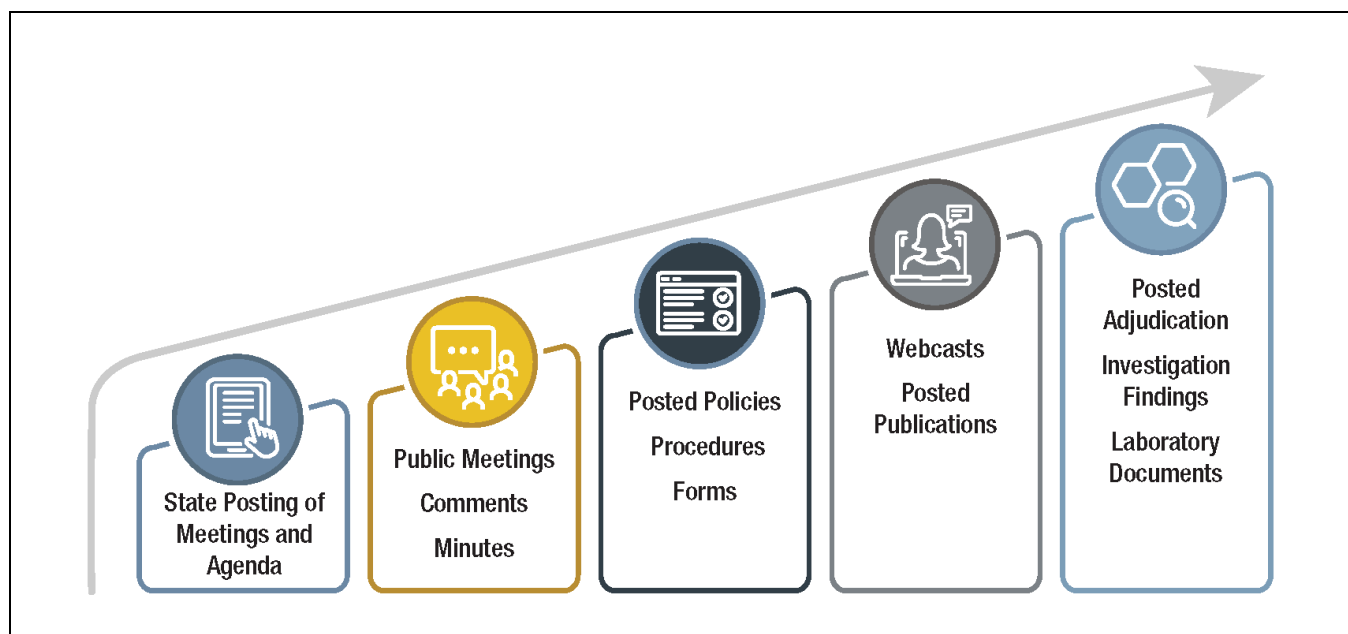


Exhibit 3. Possible Actions to Increase Transparency.

Because the clear goal of the commission is to encourage reliable and accurate science, achieving an appropriate balance regarding disclosures and transparency is critically important. The commission should encourage the disclosure of problems and investigate them within its purview. However, laboratory directors and analysts may not cooperate as fully in an environment that feels punitive. For example, total transparency that includes the identities of individual analysts may do more harm than good. The question then becomes how a commission can foster protected disclosure. Crime laboratory leaders are working to produce a culture in which random or systematic errors are understood to be a part of every physical measurement, including every forensic examination. Human errors should be expected and used to improve training and procedures in the laboratory. The state forensic science commission needs to contribute to a positive culture in crime laboratories while maintaining its role as an independent investigating body.

Assessing Capabilities and Needs

Many commissions are charged with assessing the capabilities and needs of existing FSSPs. This is a natural first step that helps commission members become acquainted with the facilities, managers, and issues. One of the first tasks in this process is to determine a precise and useful definition of a crime laboratory or unit.⁵¹ Many forensic science units will handle latent print analysis, crime scene investigation, or digital evidence outside a traditional crime laboratory setting. Because of this, such units may not be accredited, although they may be within the

⁵¹ Texas Article 38.35 (a)(4) provides the following:

“The term ‘forensic analysis’ is defined as a medical, chemical, toxicological, ballistic, or other expert examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal action. The term includes an examination or test requested by a law enforcement agency, prosecutor, criminal suspect or defendant, or court. The term does not include:

- latent print examination;
- a test of a specimen of breath under Chapter 724, Transportation Code;
- digital evidence;
- an examination or test excluded by rule under § 411.0205(c), Government Code;
- a presumptive test performed for the purpose of determining compliance with a term or condition of community supervision or parole and conducted by or under contract with a community supervision and corrections department, the parole division of the Texas Department of Criminal Justice, or the Board of Pardons and Paroles; or
- an expert examination or test conducted principally for the purpose of scientific research, medical practice, civil or administrative litigation, or other purpose unrelated to determining the connection of physical evidence to a criminal action.”

purview of a state commission's responsibility under its authorizing law. Other critical terms that must be defined include "forensic analyst" and "forensic analysis."

In order to include all their FSSP, some states have surveyed all state law enforcement agencies.⁵² Such surveys can include questions about the types of analysis performed, number of personnel, laboratory accreditation status, certification of personnel, and facilities. Survey should provide an opportunity for an agency to report any issues it is facing relating to its crime laboratory. States may survey crime laboratory directors regarding budgets and the need for space, equipment, and resources.

Commissions can be used to examine casework resource requirements and backlogs. One approach is by developing a partnership with an academic institution to research the current need. This research could quantify the minimum requirements needed for the FSSP to meet the expectations of the criminal justice stakeholders and the community. The outcome of this research could inform a commission to the adoption of new methodologies or requirements for accreditation and certification with an understanding of resource constraints and needs.

Data collection and analysis of the laboratories operations can inform mutual collaboration that can contribute to increasing and maintaining laboratory efficiency, effectiveness, and quality. Many states already have a crime laboratory managers' association and may have access to information shared in meetings of this. A commission's independence provides additional justification and support for a crime laboratory's request for equipment and personnel submitted to the funding authority.⁵³

One resource that is available to crime laboratory managers is Project FORESIGHT at West Virginia University.⁵⁴ This NIJ-funded project has collected data from more than 160 participating laboratories, and in return, the laboratories receive a customized report comparing their performance in each forensic investigative area to industry standards for free.⁵⁵ Additional laboratory management publications and resources are also available through this project. As an extension of Project FORESIGHT, NIJ's FTCoe has created a workforce calculator, an interactive tool available to agencies to evaluate a laboratories workforce needs.⁵⁶



Stewardship

Crime laboratory directors strive for excellence. They want to practice good science, have appropriate research results to support their methodologies, maintain professional competency, and move the state of forensic services forward. Many state commissions have responsibility for stewardship of crime laboratories in an oversight role. Oversight may include (1) providing state accreditation by piggybacking on an existing Accreditation entity (e.g., New York and Texas), (2) providing an additional and separate licensing process (e.g., Maryland), and (3) receiving and investigating complaints of serious professional negligence and misconduct.

Typically, when a separate audit (in addition to that completed by an accreditation entity) is not required by a state, oversight is accomplished primarily through the commission's review of reports regarding misconduct and professional negligence. Of note, crime laboratories are required to send those reports to their accreditation entity.

⁵² For a comprehensive look at the work conducted by the California Task Force on Forensic Services under the California Office of the Attorney General, see this [Task Force Report](#), which includes sample survey forms and a glossary.

⁵³ For a study that reports that increased personnel in the field is the number one need of the forensic science community, see NIJ's "[Status and Needs of Forensic Science Service Providers: A Report to Congress](#)."

⁵⁴ West Virginia University, "Project FORESIGHT," accessed April 6, 2022, <https://business.wvu.edu/research-outreach/forensic-business-studies/foresight>

⁵⁵ West Virginia University, *Project FORESIGHT Annual Report, 2019–2020, 2020*, https://researchrepository.wvu.edu/faculty_publications/3008/

⁵⁶ Workforce Calculator Project. Forensic Technology Center of Excellence. <https://forensiccoe.org/workforce-calculator-project/>.

State-level accreditation may be considered after a commission reviews the forensic laboratories' past performance.⁵⁷ Texas adds an additional layer of oversight by administering a self-disclosure program that permits the TFSC to review all reports of misconduct and professional negligence in a timely manner. The U.K. combines its Forensic Science Regulator with a Forensic Science Advisory Council, which was created in 2007, to provide a more formalized model.⁵⁸ "This can be viewed as the culmination of a new approach to quality in forensic science which can be traced back to numerous high-profile miscarriages of justice in the 1990s."⁵⁹



Complaints and Investigations

A state oversight body may investigate complaints filed by individuals or attorneys and the self-disclosure of professional misconduct and negligence by crime laboratories themselves. States and crime laboratories receiving Coverdell grants must have an external and independent governmental entity to investigate allegations of serious negligence and misconduct. State commissions may fulfill this requirement.

Prior to accepting any complaint, decisions should be made regarding the required process, including the creation of a complaint form, development of the investigative process, and considerations relating to notification and issues of confidentiality. The complaint process should be detailed and part of a commission's published policies and procedures. Complaint forms may be published on a commission's website. In Texas, complaints are received and processed by the Complaint and Disclosure Screening Committee. The Complaint and Disclosure Screening Committee then makes a recommendation regarding jurisdiction, resources, and the needs of the criminal justice community. The full Commission then accepts or rejects the Complaint and Disclosure Screening Committee's recommendation. If accepted, the Commission forms an investigative panel to investigate the complaint or self-disclosure and ultimately issue a final investigative report for approval by the full Commission. If an independent subject matter expert is needed, the Commission is permitted to approve additional funding to retain an expert for an investigation.

If the Commission makes a finding of professional negligence or professional misconduct at the conclusion of an investigation, the Commission is required to notify the subjects of the complaints (any individual, analyst, or laboratory) against which the finding is made, and the subjects have an opportunity to appeal. The Commission also notifies all other parties to the complaint or self-disclosure, including prosecutors, defense attorneys, and the complainant. Information that is part of an investigation and report by the Commission is often subject discovery and disclosure pursuant to Brady v. Maryland and Texas' Michael Morton Act. Pursuant to the Commission's enabling statute, findings by the Commission are not a comment upon the "...guilt or innocence of any party in an underlying civil or criminal trial involving conduct investigated by the Commission."⁶⁰



Accreditation

Several states require that crime laboratories seek accreditation through an accrediting organization such as the ANSI National Accreditation Board (ANAB)⁶¹. This requirement may be part of the duties and responsibilities of a commission by statute (e.g., New York, Texas), or it may result from legislation that makes accreditation a

⁵⁷ For a discussion of the potential problems presented by state oversight commissions, please refer to the *Reauthorization and Improvement of DNA Initiatives of the Justice For All Act of 2004, Hearing before the Subcommittee on Crime, Terrorism, and Homeland Security of the Committee on the Judiciary House of Representatives*, 110th Congress (2008) (statement of Peter M. Marone, Director for the Virginia Department of Forensic Science). Supra note 4, at 28. Mr. Marone is the former director of the Virginia DFS.

⁵⁸ Forensic Science Advisory Council, "Forensic Science Regulator Terms of Reference," *Forensic Science Regulator* 3 (2020), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/505098/fsac-terms-of-ref-290612.pdf

⁵⁹ Comment from Dr. Jeff Adams, Forensic Science Regulation Unit, Home Office, United Kingdom.

⁶⁰ Tex. Code Crim. Proc. art. 38.01 § 4(d).

⁶¹ Accreditation is achieved through organizations such as ANSI National Accreditation Board (ANAB), a subsidiary of the American National Standards Institute (ANSI), <https://anab.ansi.org/en/forensic-accreditation>.

necessary requirement for the introduction of reports or testimony in a criminal trial.⁶² Some states that require accreditation (e.g., Nebraska, Missouri, and Maryland) allow this requirement to be satisfied primarily through an independent Accreditation entity.⁶³

The state may require that laboratories submit all correspondence with the accrediting agency to the commission. This would alert the commission to the need for corrective action or allegations of misconduct or laboratory negligence. The commission may examine this correspondence to determine if systemic issues exist, investigate specific incidents, or take any other appropriate action. The knowledge that a review body exists that will ask questions when necessary will increase the community's confidence in the system.

Today, most state crime laboratories (approximately 85%) are accredited.⁶⁴ Nevertheless, whether accreditation should be part of a commission's responsibilities is worthy of discussion.^{65,66} Commissioners must recognize that accreditation by external Accreditation entities is expensive and that the personnel resources required for such audits constitute additional costs to the laboratories.

Although most state and large crime laboratories are currently accredited, many forensic science units—for example, latent print analysis, digital evidence units, firearms operability, breath alcohol and crime scene investigations (CSI)—are contained within police departments and are generally not accredited. Many smaller law enforcement agencies may lack a crime laboratory but maintain a latent print and CSI unit. These units are often not accredited because compliance with ISO 17025 standards (the general requirements for the competence of testing and calibration laboratories) may not be possible.⁶⁷ Instead, some agencies have such units accredited under ISO 17020 (the general criteria for the operation of various types of bodies performing inspection). Another strategy to handle these smaller forensic units is to have all analysts certified, which can provide a certain level of confidence in the reliability of the work conducted.

Maryland has a unique program that requires all laboratories and latent units (state law does not yet cover CSI units) to be licensed. This state licensure is one of several requirements for a laboratory's accreditation. This strategy permits more frequent audits than required by the Accreditation entity. Any disclosures by the laboratory required by the Accreditation entity are maintained and then reviewed by the state annually. The four non-accredited latent print units in the state can still gain state licensure through an assessment and audit process, and on-site visits are conducted every 3 years. This program is operated by the Maryland DHMH, Office of Health Care Quality, which assesses all medical laboratories in Maryland. Although this may seem like an unusual fit, the personnel have experience in medical laboratories and quality assurance. Additionally, they work with the Forensic Licensing Advisory Board in the development and implementation of standards for state licensure.⁶⁸

⁶² Texas Code of Criminal Procedures, Art. 38.35(c);

⁶³ Accreditation is achieved through organizations such as ANSI National Accreditation Board (ANAB), a subsidiary of the American National Standards Institute (ANSI), <https://anab.ansi.org/en/forensic-accreditation>. Other accrediting bodies include A2LA, the American Board of Forensic Toxicology, ANAB, and the College of American Pathologists.

⁶⁴ Burch, Andrea M., Matthew R. Durose, Kelly A. Walsh, and Emily Tiry., "Census of Publicly Funded Forensic Crime Laboratories: Resources and Services, 2014," Washington, DC, U.S. Department of Justice, Bureau of Justice Statistics, 2016, NCJ 250152.

⁶⁵ For a recent discussion of states requiring accreditation, see National Conference of State Legislatures, "State accreditation of forensic laboratories," <https://www.ncsl.org/Documents/cj/AccreditationOfForensicLaboratories.pdf>

⁶⁶ The accreditation process may include review of internal quality assurance programs, internal audits, management reviews, proficiency testing, on-site assessments (every 4 years), once every other year site visits, nonconformance reports, corrective actions, root-cause analysis, and annual summaries. A state commission receives copies of these documents either annually or at the time they are filed.

⁶⁷ For a discussion of the importance of distinguishing these activities from those performed in crime laboratories, see John M. Collins and Jay Jarvis, *supra* note 4 at 28.

⁶⁸ The Forensic Licensing Advisory Board is composed of medical, clinical and forensic laboratory directors; two Accreditation entities; and personnel from the DHMH. Currently, its members are considering expanding the group or creating another group to include more laboratory directors and other customers for the purpose of discussing issues of mutual concern.

State-level accreditation may require more frequent oversight than would typically exist with an independent accreditation entity. Whereas independent accreditation audit teams typically visit every 5 years, a state's own accreditation process can result in a more frequent and visible relationship through interactions and correspondence, to include data reviews or inspections. This may increase transparency, accountability, and public confidence. Furthermore, the commission can consider any additional accreditation requirements it feels are necessary and appropriate.

A commission will also need to identify any private laboratories, three out of 10 public laboratories outsource some work.⁶⁹ In Maryland, the state will issue a letter of acceptance to private laboratories if they are determined to be qualified per Forensic Licensing Advisory Board requirements. In Texas, the accreditation process includes private laboratories.



Certification/Licensure

A state forensic science commission may oversee requirements for the certification of forensic analysts, as was advocated by the TFSC and at the federal level.⁷⁰ No one certification exists for all disciplines; instead, certifications are discipline-specific. Some disciplines, such as digital forensics, do not currently have a single universally accepted certification, and different certifications can be obtained from different entities and from the manufacturers of specific software tools.

The requirements for discipline-specific certifications vary widely and may require years of experience before an analyst is eligible. Additionally, certification tests may vary significantly in cost and level of difficulty. Any certification process would be in addition to existing external and internal proficiency testing undertaken by laboratory analysts as part of accreditation and quality assurance protocols.

Requiring universal certification is associated with other challenges, including union contracts and management operational issues (e.g., what must be done when an employee fails to maintain their certification).

Many laboratories encourage but do not require certification. They may support it through incentives, such as paying for the certification or making it a prerequisite for salary increases and promotions. A commission must consider these issues before any statute is enacted that requires certification. For example, when adding a licensing program to the TFSC's responsibilities, the Texas legislature recognized that it would take time for a committee of scientists to create the requirements for such a program and provided a 3-year time frame for the transition.⁷¹ North Carolina has required the certification of analysts working at the NCSCL since June 2012.⁷²

⁶⁹ Census of Publicly Funded Forensic Crime Laboratories, *supra* note 12.

⁷⁰ National Commission on Forensic Science, "Views of the Commission: Certification of Forensic Science Practitioners," Department of Justice, National Institute of Standards and Technology (August 12, 2016), <https://www.justice.gov/ncfs/file/888671/download>

⁷¹ Texas Judicial Branch, "Texas Forensic Science Commission: Forensic Analyst Licensing Program," accessed April 6, 2022, <https://www.txcourts.gov/fsc/licensing/>

⁷² North Carolina General Statutes. Chapter 114. Department of Justice; Article 9. North Carolina State Crime Laboratory; Session Law (S.L.) 2011-19; § 4. Amended the first time in S.L. 2011-307; § 8. Amended the final time in S.L. 2012-168; § 6.1.



Retroactive Reviews

Many states have initiated statewide reviews of certain cases or classes of forensic casework. This has happened in recent years regarding DNA mixture interpretation, hair microscopy, serology, and bite mark. The state commission may be well-positioned to conduct these types of retroactive reviews.

The commission may appoint a subcommittee to identify scientists and appropriate stakeholders to meet and determine the methodology for retroactive reviews. These reviews reveal an important attribute of commissions: they should be flexible enough to establish subcommittees for specific projects/reviews and to request assistance from other professional scientists and stakeholders as appropriate for a project.

As a specific example, when the Virginia Forensic Science Board begins a discipline-specific case review, members of the board and the Scientific Advisory Committee meet with other identified stakeholders and the Virginia DFS general counsel. The Virginia State Crime Commission and the Virginia Indigent Defense Commission are included on these review panels. The Virginia State Crime Commission can readily identify any defendants who are currently prisoners within the state correctional system who have interest in the outcomes of any commission decisions. Additionally, investigators for the Virginia Indigent Defense Commission can assist in locating defendants or family members when necessary, exemplifying how the early identification of assets and resources is very important to state commissions.

Texas has taken on several such reviews.⁷³ For example, in collaboration with the State Fire Marshall, the state altered the use of methodologies in arson investigations: For more information, see the white paper on this topic created by the TFSC.⁷⁴ This is merely one example in which a state commission would be in a good position to discuss systemic issues regarding the use of forensic science by stakeholder (inset).

Training and Education

The NAS Report was clear on its recommendation for the education of prosecutors, defense attorneys, and judges in forensic science. Some examples of educational efforts are as follows:

- **Arizona** does not have a statutorily created commission; however, it has a Forensic Science Advisory Committee that was established in 2007. Operating under the authority of the Attorney General, this Committee includes dozens of stakeholders who attend meetings several times a year. In 2011, the Committee held its first Forensic Science Academy at the Maricopa County Medical Examiner's Office, and both prosecutors and defense attorneys were invited to attend. Since that time, the Committee has held Basic, Advanced, and Driving under the Influence (DUI), Domestic Violence, and DNA (3-D) Academies. Monies gained through the academy tuition is used to bring in out-of-state speakers to lecture on topics. Continuing education opportunities are provided to scientists several times a year. The Committee also

"The IAAI supports criminal justice agencies that engage in postconviction review of the science and methodology underlying arson convictions...Even in jurisdictions without a science review panel, pre-filing expert reviews of arson cases are encouraged... The State of Texas has addressed this recognized need by [establishing the] creation of an independent multidisciplinary Science Advisory Workgroup. The IAAI encourages every state to follow the Texas model for review and, through IAAI's Public Agency Advisory Committee, aids jurisdictions to help locate resources for reviews of the science and methodology underlying arson convictions."⁶⁹

—International Association for Arson Investigators (IAAI)
December 7, 2015

⁷³ The International Association of Arson Investigators Endorses the Use of Multidiscipline Science Review Panels," accessed April 6, 2022, <https://www.txcourts.gov/media/1440437/iaai-endorses-use-of-multidiscipline-science-review-panels.pdf>

⁷⁴ Texas Judicial Branch, "Texas Forensic Science Commission," accessed April 6, 2022, <https://www.txcourts.gov/fsc/>

works with Arizona’s Judicial College to provide forensic science training for judges. To date, more than 9,800 hours of training have been provided to more than 1,100 individuals.

- **Montana** has a Forensic Science Laboratory Advisory Board that was established as a Coverdell-required independent investigative body. Although this Board generally only meets annually, it performs community outreach and training, including open houses hosted by the state laboratory for the public. Personnel also deliver numerous presentations and training to stakeholder organizations, including the sheriffs’ association, chiefs of police, defense organization, county attorneys, judges, and justices of the peace.
- **Virginia’s** Forensic Science Board and DFS jointly run a Forensic Academy for crime scene investigators from law enforcement agencies that submit evidence to crime laboratories for analysis. The CSIs can participate annually in continued training and engage in an alumni association. These activities are designed to improve collaboration between local agencies and the DFS, which handles most forensic analysis in the state.



Other Responsibilities

Commissions may take on responsibilities other than those previously described. Many commissions use the scientists to assist in the review of new methodologies prior to their implementation. Such reviews may be organized through a state’s forensic laboratory director’s organization. The reviews may be connected to national-level efforts, including the work of the OSACs. In some cases, commissions may assign a member or staff person to act as the conduit to national reform efforts, other state commissions, or professional organizations in the forensic sciences. These lines of communication may facilitate the transmittal of standards and guidelines from national programs to state and local forensic scientists.

Several states take on specific ongoing projects regarding the identification of human remains.⁷⁵ Again, these projects require multidisciplinary involvement and benefit greatly from academic partnerships. Dialogue with federal agencies regarding requirements for DNA entries into databases and comparisons is crucial; as for other projects, commission/boards are appropriate responsible institutions. Additionally, state commissions represent appropriate multidisciplinary bodies to participate in the National Missing and Unidentified Persons System (NamUs) program that provides NIJ support to assist in the use of DNA technology for missing persons and the identification of human remains.⁷⁶

Conclusion

With 20 states and Washington, D.C. having established forensic science state commissions, advisory boards, task forces, or informal boards and still others considering the creation of a forensic science commission, sufficient momentum and interest likely exist to create a National Association of Forensic Science Commissions. Such an association would facilitate the networking of commissions regarding issues that arise. Additionally, conferences would provide an opportunity to disseminate information on best practices regarding websites, policies and procedures, operational considerations, retroactive discipline case reviews, and various other issues as they emerge. They also could serve as productive venues for subsets of commissions, such as crime laboratory directors, general counsel, statisticians, and staff. States interested in creating a state commission would benefit from technical assistance, such as best practices, model policies and procedures, and guided discussions during planning efforts to identify how best to meet specific states’ needs.

⁷⁵ Texas Judicial Branch, “Texas Forensic Science Commission,” accessed April 6, 2022, <https://www.txcourts.gov/fsc/>

⁷⁶ U.S. Department of Justice, “NamUs: National Missing and Unidentified Persons System,” accessed April 6, 2022, <https://namus.nij.ojp.gov/>

Smaller states may consider combining their resources through a regional approach. Such an approach would be like that followed by North Carolina, whose board invited several scientists working in other states to participate. This relatively broad-based group provides the state with extensive expertise and resources.

Recognizing that more than 90% of crime laboratory services are provided by state and local laboratories, states are in an ideal position to impact the quality of forensic work and enhance the public confidence in forensic results. State forensic science commissions can provide stewardship and support to forensic science laboratories within their jurisdictions. State commissions can bring together forensic scientists, crime laboratory managers, and customers in the criminal justice system. This multidisciplinary group can then identify and solve issues, review procedures from other state's forensic commissions, and foster continuous improvement.

This group of professionals focused on enhancing forensic work should ideally engage in a planning effort to describe and define the role and responsibilities their state commission should have. This planning effort also initiates the process of relationship building and the education of its participants to best identify current and potential issues facing crime laboratories and how they can be most appropriately addressed.

Because many of the duties and responsibilities of a state forensic science commission will have public interest, the transparency of its operations will increase public confidence regarding the integrity of the commission's process, forensic evidence, and the criminal justice system. When the level of broad-based proactive collaboration on a commission and its subcommittees is higher and when the public is more informed on the work being done, financial support and greater public awareness and support for laboratories will more likely be forthcoming.

Appendix 1. Summary Tables of State Forensic Science Oversight Mechanisms

Exhibit A-1. Originating Statute for State Forensic Science Oversight.

State	Type	Founding Date	Relevant Statute (latest date)	Link
Alabama	Advisory Board	1995	AL Code § 36-18-53 (2022)	https://law.justia.com/codes/alabama/2018/title-36/chapter-18/article-3/section-36-18-53/ https://casetext.com/statute/code-of-alabama/title-36-public-officers-and-employees/chapter-18-director-of-forensic-sciences/article-3-alabama-chemical-testing-training-and-equipment-trust-fund/section-36-18-51-establishment-of-fund-management-of-money
Arizona	Advisory Committee	2007	N/A	Founded by the Arizona Attorney General's Office. https://www.azag.gov/criminal/azfsac
Arkansas	Board	1991	Arkansas Code 2015, § 12-12-302	https://law.justia.com/codes/arkansas/2015/title-12/subtitle-2/chapter-12/subchapter-3/section-12-12-302
Delaware	Commission	2015	Delaware Code Title 29, Chapter 47 § 4714 (2019)	https://delcode.delaware.gov/title29/c047/index.html
Washington, D.C.	Advisory Board	2011	D.C. Code § 5-1501.11 (2012)	http://dccode.org/simple-2012/sections/5-1501.11.html
	Stakeholder Council	2011	D.C. Code § 5-1501.13 (2021)	https://code.dccouncil.us/dc/council/code/sections/5-1501.13.html
Illinois	Task Force	2019	Executive Order 2019-3	https://www.illinois.gov/content/dam/soi/en/web/coronavirus/documents/executiveorder-2019-13.pdf
	Commission	2021	IL Public Act 102-0523	https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=102-0523
Indiana	Commission	2016	Indiana Code Title 4, Article 23 Chapter 6	https://statecodesfiles.justia.com/indiana/2016/title-4/article-23/chapter-6/chapter-6.pdf
Kansas	Advisory Board	1996	N/A	Board of County Commissioners adopted Resolution 269-1996, which was rescinded and replaced with Resolution 006-2022 https://www.sedgwickcounty.org/forensic-science/advisory-board/ https://www.sedgwickcounty.org/media/61064/advisory-board-resolution-006-2022.pdf
Maryland	Laboratory Advisory Committee	2007	MD Code Health-Gen Code § 17-2A-12 (2022)	https://casetext.com/statute/code-of-maryland/article-health-general/title-17-laboratories/subtitle-2a-forensic-laboratories/section-17-2a-12-forensic-laboratory-advisory-committee

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State	Type	Founding Date	Relevant Statute (latest date)	Link
Massachusetts	Oversight Board	2018	Mass. General Laws c.6 § 184A	https://www.mass.gov/info-details/mass-general-laws-c6-ss-184a https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter69
Michigan	Task Force	2021	Executive Order 2021-4	https://www.michigan.gov/documents/whitmer/EO_2021-4_Task_Force_on_Forensic_Science_735438_7.pdf
Missouri	Commission	2009	650.059. RSMO, HB 62, 2009	https://boards.mo.gov/UserPages/Board.aspx?191 https://revisor.mo.gov/main/OneSection.aspx?section=650.059&bid=31330&hl=
Montana	Laboratory Advisory Board	2019	HB 586	https://leg.mt.gov/bills/2019/billpdf/HB0586.pdf https://dojmt.gov/crime/forensic-science-laboratory-advisory-board/
Nebraska	Laboratory Advisory Board	1996	N/A	https://nebraskalegislature.gov/pdf/reports/committees/select_special/lr601/lr601_2016.pdf
New York	Commission	1994	NY CLS 995-a	https://law.justia.com/codes/new-york/2013/exc/article-49-b/
North Carolina	Advisory Board	2011	North Carolina, General Statutes. Chapter 114. Article 9. § 114-61 (2013)	https://law.justia.com/codes/north-carolina/2013/chapter-114/article-9/section-114-61
Oklahoma	Commission	2002	Okla. Stat. tit. 74 § 150.3 (2021)	https://casetext.com/statute/oklahoma-statutes/title-74-state-government/chapter-5-state-bureau-of-investigation/section-1503-state-bureau-of-investigation-commission
Rhode Island	Commission	1978	Title 12 Criminal Procedures, Chapter 12-1.1 et seq. (2012)	https://law.justia.com/codes/rhode-island/2012/title-12/chapter-12-1.1/
Texas	Commission	2005	Tex. Code Crim. Proc. art. 38.01 et seq. (2021)	https://statutes.capitol.texas.gov/Docs/CR/htm/CR.38.htm
Virginia	Board	2005	Va Code Ann. § 9.1-1109 (2016)	https://vacode.org/9.1-1109/
Washington	Investigations Council	1999	RCW Chapter 43.103 (2017)	https://apps.leg.wa.gov/rcw/default.aspx?cite=43.103
Wisconsin	Advisory Committee	2020	N/A	https://www.doj.state.wi.us/dfs/evidence-submission-guidelines

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Exhibit A-2. Responsibilities for Operating State Commissions, Advisory Boards, or Task Forces.

State	Prescribe Qualifications, Duties of Lab Director	Fiscal Oversight	Guidance/ Programs/ Protocols	Reviews Complaints	Accreditation/ Licensing
Alabama	X	X			
Arizona			X		
Arkansas	X	X			
Delaware			X		
District of Columbia			X	X	
Illinois		X	X	X	
Indiana		X	X	X	
Kansas	X		X		
Maryland					X
Massachusetts	X	X	X	X	X
Michigan			X	X	
Missouri				X	
Montana			X	X	
New York					X
Nebraska			X	X	
North Carolina			X	Ombudsman	
Oklahoma		X			
Rhode Island		X			
Texas			X	X	X
Virginia		X	X		
Washington	X	X	X		
Wisconsin			X		

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Exhibit A-3. Summary of the Membership of Current Forensic Science State Commissions and Oversight Bodies.^{1,2}

State/Body	Appointing Authority	Crime Lab Manager	Forensic Scientist	Cognitive Bias	Statistician	Quality Management	Prosecutor	Lawyer/AG	Defense	Judge	Legislator	Law Enforcement	Physician/ME	State Agency	Member-at-Large	Advocacy/Innocence Project
Alabama	Stakeholder organizations, Governor	X					X			X	X	X			X	
Arizona	Governor	X					X	X ¹				X	X			X
Arkansas	Governor						X	X		X		X	X		X	
Delaware	Governor							X	X		X	X		X	X	
D.C. Science Advisory Board	Mayor	X	X		X	X										
D.C. Stakeholders Council	Mayor	X					X	X ¹	X		X	X	X	X		
Illinois	Governor	X	X				X		X	X						X
Indiana	Governor											X	X	X		
Kansas	County Commission	X					X					X		X	X	
Maryland	Governor	X	X											X		
Massachusetts	Governor	X	X	X	X	X	X	X	X							X
Michigan	Governor	X	X	X			X	X	X	X	X	X	X			
Missouri	Governor	X					X					X				
Montana	Attorney General						X	X	X	X		X				
Nebraska			X				X		X			X		X		
New York	Governor	X	X				X	X	X	X	X	X	X	X	X	
North Carolina	Attorney General	X	X		X	X							X			
Oklahoma		X	X				X	X				X		X		
Rhode Island	Governor							X				X			X	
Virginia Forensic Science Board	Governor	X	X				X	X ¹	X		X	X	X	X		
Texas	Governor		X		X		X		X				X			
Washington	Governor						X				X	X	X			
Wisconsin	Attorney General	X	X				X	X	X	X	X	X				

¹ Representative of Attorney General's office in the state.

² Unless noted with an "X", the membership category was not specifically designated or was not available.

Appendix 2. Snapshot of Forensic Science State Commissions and Oversight Bodies

The information presented below is summarized; see the relevant statutes and points of contact for specific details.

Alabama

In 1995, the Alabama Chemical Testing Training and Equipment Advisory Board was created to develop, and if appropriate, periodically revise, a recommended list of priorities and criteria for an annual disbursement of monies in the Alabama Chemical Testing Training and Equipment Trust Fund. The list of funding priorities will be given to the provide the Governor, Lieutenant Governor, Attorney General, Speaker of the House, Director of the Department of Forensic Sciences, Director of the Department of Public Safety, the Executive Director of the Alabama Chiefs of Police Association, the Executive Director of the Alabama Sheriffs' Association, the Executive Director of the Office of Prosecution Services, the Chief Justice of the Alabama Supreme Court and to the Executive Secretary of the Peace Officers' Standards and Training Commission. These monies will be used to purchase and maintain chemical testing equipment for city, county, or state law enforcement agencies in this state, to provide training to law enforcement personnel of this state in the use of that chemical testing equipment, to pay the costs of the Implied Consent Unit in the Department of Public Safety, to pay the costs of the Implied Consent Program in the Department of Forensic Sciences, and to support the activities of the board.

The Alabama Chemical Testing Training and Equipment Trust Fund Advisory Board consists of eight members to be appointed as follows:

- The President of the Alabama Sheriffs' Association shall appoint one sheriff.
- The Alabama Association of Chiefs of Police shall appoint one police chief from a city of less than 25,000 population and one police chief from a city of greater than 25,000 population according to the last federal census.
- The Alabama Attorney General shall appoint one prosecutor.
- The Chief Justice of the Alabama Supreme Court shall appoint one district or municipal judge and one circuit judge.
- The Governor shall appoint one citizen at large.
- The Lieutenant Governor shall appoint one member of the Alabama Senate.
- The Speaker of the House of Representatives shall appoint one member of the House of Representatives.
- The Technical Director, Implied Consent Program, Department of Forensic Sciences, and the Commander, Implied Consent Unit, Department of Public Safety, shall serve on the advisory board by virtue of their departmental assignments.

The Director of the Department of Forensic Sciences shall administer the Alabama Chemical Testing Training and Equipment Trust Fund in accordance with the recommended list of priorities and criteria for disbursement as published by the Alabama Chemical Testing Training and Equipment Advisory Board.

Statute: Alabama State Crime Laboratory Board; Alabama Code 2018, § 36-18-53, 1995

Arizona

Arizona's Forensic Science Advisory Committee was not statutorily created. Instead, in 2008, the Arizona Attorney General created this group, which is administered by the Attorney General's Office. This Committee is a relatively large group, and its membership includes all crime laboratory directors; representatives from the prosecution, defense, judiciary, Justice Project, law enforcement, and Arizona Criminal Justice Council; and a victim advocate. Since its inception, it has been chaired by a retired judge. The Committee has created a Forensic Science Academy to train prosecutors, defense attorneys, crime laboratory analysts, and judges. It has also recently begun a hair microscopy review working group. The Committee operates informally and serves as the independent investigative body for Coverdell grants.⁷⁷ The Office of the Attorney General provides staff support through a part-time coordinator.

Arkansas

In 2019, the Arkansas State Crime Laboratory was placed in the Department of Public Safety by the Transformation and Efficiencies Act.⁷⁸ It is the primary laboratory for the state and accepts public defender cases. In 1991, Arkansas created an eight-member State Crime Laboratory Board as a policy board. Its membership—primarily considered to be its “customer” base—is tasked with prescribing responsibilities of the laboratory's executive director and the appointment of the state's medical examiner. The Board is authorized to accept gifts, grants, or funds and enters into contracts. It has policy-making powers as to the operation of the Arkansas State Crime Laboratory. The board is required to meet at least once on a quarterly basis.

Eight members who are gubernatorial appointments serve 7-year terms:

- Active judge
- Practicing lawyer
- County Sheriff
- Chief of police
- Prosecutor
- Two physicians
- Member-at-large

Statute: Arkansas State Crime Laboratory Board; Arkansas Code 2015, § 12-12-302, 1991

Contact: Kermit.Channell@crimelab.arkansas.gov

⁷⁷ The Paul Coverdell Forensic Science Improvement Grants Program (“the Coverdell program”) awards grants to states and units of local government to help improve the quality and timeliness of forensic science and medical examiner services. The program requires forensic laboratory recipients to certify that a government entity exists with a process in place to conduct an external and independent investigation of allegations of serious negligence and misconduct. More information can be found at Bureau of Justice Assistance, “Paul Coverdell Forensic Science Improvement Grants Program,” accessed April 6, 2022, <https://www.nij.gov/topics/forensics/lab-operations/capacity/nfsia/pages/welcome.aspx>

⁷⁸ Arkansas Department of Public Safety, “Arkansas State Crime Laboratory,” accessed April 6, 2022, <https://www.dps.arkansas.gov/crime-info-support/arkansas-state-crime-lab/>

California

California enacted legislation in 2007 creating the California Crime Laboratory Review Task Force to “make recommendations as to how best to configure, fund, and improve the delivery of state and local crime laboratory services in the future.”⁷⁹ A comprehensive survey was conducted, and numerous public meetings were held over 2 years at different crime laboratories. A comprehensive report was issued in 2009 recommending, among other items, the certification of analysts and accreditation of laboratories through existing Accreditation entities⁸⁰. They also recommended the creation of a statewide entity, stating that the most effective method of handling the identified laboratory issues would be by means of inter-jurisdiction coordination and advocacy at the state level. The Task Force was to issue a supplemental report the following year. However, this report was never published, and the group no longer meets. No state commission was created.⁸¹

Delaware

Delaware created its Forensic Science Commission in 2015. The mission of this Commission is to provide oversight and guidance to the Division of Forensic Science, which is within the Department of Safety and Homeland Security. The Delaware Forensic Science Commission currently has two standing advisory committees, one on Standards and Certifications and a second on Strategic Planning. Its 10 members include customers (i.e., law enforcement, prosecution and defense), legislators, and forensic scientists.

Ten members, including some gubernatorial appointments:

- Secretary of Department of Health & Social Service
- Attorney General (or designee)
- Chief Defender (or designee)
- State Senate—Chair, Homeland Security
- House—Chair, Homeland Security
- Representative of the Chiefs of Police
- State Troopers Association or FOP (with forensic science training; list provided by the Secretary of Department of Safety & Homeland Security and the governor)
- Two members with forensic science expertise (gubernatorial appointments)

Statute: Forensic Science Commission; Delaware Code Title 29, Chapter 47§4714, 2015

⁷⁹ California Penal Code § 11062.

⁸⁰ California Crime Laboratory Review Task Force. An Examination of Forensic Science in California. November 2009.
https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/crime_labs_report.pdf

⁸¹ Ryan Goldstein opined that California’s failure to implement a commission may have resulted from budget issues and resistance from forensic science organizations: Goldstein, Ryan, “Improving Forensic Science through State Oversight,” *Texas Law Review* 90 (2012): 225.

District of Columbia

Washington, D.C., provided for two advisory and oversight bodies when it created the DCDFS in 2011. The Science Advisory Board comprises nine experienced scientists, and the Director and Deputy Director of the DCDFS serve as *ex officio*, non-voting members. This Board serves to review and recommend matters related to the scientific operation of the Department, including qualification standards for analyst positions. The second board is the Stakeholder Council, which consists of designated positions and has the Deputy Mayor for Public Safety serving as its chairperson. Its duties consist of identifying issues regarding the delivery of services and the effectiveness of DCDFS. It also advises the Mayor and the D.C. Council on matters relating to the Department.

Science Advisory Board

The science advisory board meets at least three times per year and consists of nine members who are mayoral appointments with 3-year terms as well as two *ex officio*, non-voting members:

- Five scientists with experience in scientific research and methodologies that are not currently employed by DCDFS, including one statistician and one member with expertise in quality assurance
- Four forensic scientists who are not currently employed by the Department or by a law enforcement laboratory
- Director of the DCDFS non-voting *ex officio*
- Deputy Director of the DCDFS non-voting *ex officio*

Statute: D.C. Code § 5-1501.11

Stakeholder Council

The stakeholder council meets at least twice a year and consists of the following members:

- Deputy Mayor for Public Safety and Justice
- Chief of the Metropolitan Police Department
- Chief Medical Examiner
- Attorney General
- US Attorney for D.C.
- Director of the Public Defender Service for D.C.
- Federal Public Defender for D.C.
- Director of the Department of Health
- Chief of the Fire and Emergency Medical Services Department
- Director of the DCDFS
- Head of any other government agency that regularly utilizes the forensic science services of the Department
- Chairperson of Judiciary Committee of the Council of D.C.—*ex officio*

Statute: D.C. Code § 5-1501.13

The DCDFS accreditation withdrawn in 2021⁸².

Contact: contactDFS@dc.gov

Illinois

Illinois established a Laboratory Advisory Committee in 2005 to make recommendations regarding accreditation and quality assurance but the group had not met for several years. In 2019, the Governor established a Task Force on Forensic Science to identify issues, provide guidance and develop long-term strategic plans to overcome challenges faced by the publicly funded laboratories and identify new technologies. The task force was charged with reporting its findings and recommendations to the Governor by June 1, 2020, at which time the Task Force would sunset.

However, on August 20, 2021, the Illinois General Assembly enacted legislation to create the Illinois Forensic Science Commission. The commission meets quarterly and will focus on conducting a system-based review of publicly funded forensic laboratory protocols and practices, provide guidance to improve the practice of forensic science, analyze the impact of current laws on forensic science laboratories, and ensure that the agencies have adequate resources.

The Commission consists of the following members, who are appointed by the Governor for a 4-year term:

- Director of the Illinois State Police (or designee)
- Director from each publicly funded laboratory
- Prosecutor specializing in admissibility of evidence
- Three forensic scientists representing a variety of disciplines
- Judge
- Academic specializing in forensic science
- At least one community representative (e.g., innocence project, advocacy)

Statute: IL Public Act 102-0523

⁸² ANSI National Accreditation Board. Directory of Accredited Organizations.
https://search.anab.org/?_hstc=4076783.66ff64363230679d76afbee689c701b5.1652031820677.1652031820677.1652031820677.1&_hssc=4076783.1.1652031820677&_hsfp=433671884

Indiana

Indiana statutorily created a Commission on Forensic Sciences in 1959. This Commission was intended to establish and maintain a laboratory for scientific research and experimentation. In 2016, the Indiana Forensic Science Commission created and consists of five members appointed by the governor for a 4-year term:

- a pathologist
- a person engaged in police work
- a coroner
- a lawyer
- state health commissioner, also commission secretary

Each member shall serve until the member's successor is appointed and has qualified. Members of the commission may be removed by the governor for cause, and any vacancy shall be filled by appointment from the proper category and for the unexpired term. The members shall elect a chairperson to serve for a period of one year.

The objectives of the commission shall be to promote in the state of Indiana scientific information and services in pathology, immunology, radiology, photography, psychiatry, dentistry, anthropology and other forensic sciences.

Statute: IN IC § 4-23-6, 2016.

Kansas

The Board of County Commissioners adopted a Resolution to establish the Sedwick County Regional Forensic Science Center Advisory Board on December 18, 1996. This resolution was rescinded and replaced with Resolution 006-2022. The 14 Board membership consists of:

- Sheriff
- District Coroner for the 18th Judicial District
- District Attorney for the 18th Judicial District
- Chief of Police, City of Wichita
- Chief of Fire Department
- Emergency Medical Services Director
- Dean, University of Kansas School of Medicine
- Director, Hugo Wall School of and Public Affairs of Wichita State University

- County and City Managers
- Director, Regional Forensic Science Center (FSC), Chair of Advisory Board
- Law enforcement officer from a Sedwick County municipality (2 year term)
- Business representative for a Forensic Science Center (2 year term)

Each member shall serve as long as they hold their respective positions or may choose to appoint a designee to fulfill their duties and responsibilities on the Board. Members of the commission may be removed by the governor for cause, and any vacancy shall be filled by appointment from the proper category and for the unexpired term. The members shall elect a chairperson to serve for a period of one year.

The purpose of this Advisory Board is to enhance communication between the FSC and its stakeholders, advise the coroner and county manager on matters of policy and procedure regarding forensic laboratory services, and provide for the orderly development of forensic laboratory services in cooperation with law enforcement agencies and educational institutions to serve the community in the most efficient manner possible. The Board is not responsible for determining operational policies and procedures, or reviewing budgets of the Forensic Science Center. If the County Manager seeks input from the Board, the Board can participate in the recruitment and selection process for the Director or District Coroner

Statute: Not applicable. Established by the County Commissioner Resolution 006-2022, 2022⁸³.

Maine

In 2013, a legislative document (LD 1045, House Paper HP 736) was sponsored by Representative Victoria Kornfield as an "Act To Establish the Forensic Advisory Committee," but the bill did not pass. Currently, Maine does not have an authorized forensic advisory committee.⁸⁴

As written, LD1045 would have created the Forensic Advisory Committee, reporting to the Attorney General. The advisory committee would review and make recommendations about the operations of the Office of the Chief Medical Examiner, the Maine State Police Crime Laboratory and the forensic chemistry section of the Health and Environmental Testing Laboratory. The committee would also review the conduct of personnel, errors in testing and new programs of, protocols for and methods of forensic testing. This bill proposed to have the Chief Justice of the Supreme Judicial Court appoint as chair justice who sits on the Superior Court and the chair would subsequently appoint for a four-year term: a prosecutor with expertise in forensic science; a criminal defense attorney with expertise in forensic science; physician who specializes in clinical laboratory medicine; and an academic research scientist with a doctorate in biological sciences.

Statute: Not authorized. LD 1045 Sec. 1. 5 MRSA §12004-I, sub-§74-H, 2013.

⁸³ Sedwick County Regional Forensic Science Center Advisory Board. <https://www.sedgwickcounty.org/media/61064/advisory-board-resolution-006-2022.pdf>.

⁸⁴ https://www.mainelegislature.org/legis/bills/bills_126th/billtexts/HP073601.asp

Maryland

Maryland developed a different model in 2007.⁸⁵ In this state, the legislation placed oversight responsibility for the regulation of accredited and non-accredited forensic laboratories under the Department of Health and Mental Hygiene (DHMH), Office of Health Care Quality. This Department is the agency that regulates all clinical laboratories. The legislature focused on requiring crime laboratories to meet requirements relating to quality assurance and laboratory management and administration and to obtain a state license to conduct forensic work. The Maryland Forensic Laboratory Advisory Committee was established to advise the DHMH in the implementation of a licensing program. By 2012, it had published the program regulations and had begun licensing forensic laboratories using a “crosswalk” to bridge state-developed requirements with existing accreditation programs used by the laboratories. It requires frequent on-site survey visits and audits proficiency testing and the disclosure of professional misconduct or negligence. All full-service crime laboratories are accredited. Four non-accredited latent print laboratories, which are based in police departments, have also gained state licensure. These laboratories require a full on-site survey every 3 years in addition to annual proficiency testing and internal on-site audit reviews.

The Forensic Sciences Advisory Committee consists of 10 members who are mostly gubernatorial appointments and have 3-year terms:

- DHMH, Director of Laboratories Administration (or designee)
- DHMH, Director of Office of Health Care Quality (or designee)
- American Society for Clinical Laboratory Science
- University of Maryland School of Medicine, Department of Medical Research and Technology
- A2LA
- AAFS
- ANSI
- Director of a state forensic laboratory
- Director of a county forensic laboratory
- Director of a municipal forensic laboratory

The governor appoints the chair. This state requires accreditation.

Contact: paul.celli@maryland.gov

Statute: MD Health-General § 17-2A-12, 2017

⁸⁵ Maryland Forensic Laboratory Advisory Committee. <https://msa.maryland.gov/msa/mdmanual/26excom/html/15forensiclab.html>

Massachusetts

Massachusetts has a Forensic Science Oversight Board that was established in the executive office of public safety and security to provide oversight and independent auditing of all commonwealth facilities that provide forensic science services in criminal investigations. The board is responsible for reviewing any allegations of misconduct or use of techniques that may not be scientifically valid, recommend improvements to the education and training that may improve laboratory quality, review and evaluate laboratory accreditation and professional licensing processes, make recommendations to the budget and allocation of resources, and review personnel and laboratory records.

The Forensic Sciences Oversight Board consists of 13 voting members who are gubernatorial appointments and the undersecretary of forensic sciences or designee who serves as the chair but does not have voting privileges. The members are appointed to 4-year terms and represent a variety of fields of expertise and relevant forensic disciplines:

- Undersecretary of Forensic Science (Chair)
- Forensic Science Expert
- Forensic Laboratory Management Expert
- Forensic Laboratory Management Expert
- Cognitive Bias Expert
- Statistics Expert
- Academia, Research Involving Forensic Science
- Clinical Quality Management Expert
- Massachusetts District Attorneys Association Nominee
- Attorney General Nominee
- Committee for Public Counsel Services Nominee
- Massachusetts Association of Criminal Defense Lawyers Nominee
- New England Innocence Project, Inc. Nominee

This state requires accreditation.

Statute: Mass. General Laws c.6 § 184A ([St.2018, c. 69, § 9](#), eff. April 13, 2018)

Contact: eopsinfo@state.ma.us

Michigan

Executive Order 2021-04 established the Michigan Task Force on Forensic Science as an advisory body within the Michigan Department of State Police (MSP). The Task Force membership must include gubernatorially appointed 11 positions and can include additional participants, including the Attorney General, judicial representatives, or Michigan state legislature. The task force is charged with advising the governor and the director of the Michigan State Police Department and develop recommendations to improve and strengthen forensic science methodologies, protocols for disclosing personnel misconduct, processes for the public to report complaints, procedures for communication forensic science developments to stakeholders, and post-conviction notification of parties that may have been affected by negligence or the misapplication of forensic science.

The task force will consist of the following:

- Director of the MSP Department (or designee)
- Director of the MSP Department' Forensic Science Division
- Prosecutor
- Defense attorney
- Board-certified forensic pathologist
- Forensic Scientist practicing at a county agency
- Two Forensic Scientists with a minimum of 5 years of experience
- Two PhD level scientist from either Academia or the Private Sector
- Expert in Cognitive bias

Minnesota

Minnesota had a very active Commission on Forensic Science that was created in 2006 for Coverdell compliance. This Commission's early work included a survey of the forensic work performed in the state, although there was a perception that this function was not well-defined. The members were all voluntary and lacked funding or formal authority or power. By 2012, this Commission was no longer meeting.

Missouri

Missouri's Crime Laboratory Review Commission, which was created in 2009 within the Department of Public Safety, is an active commission and met three times in 2019. However, because of the COVID-19 pandemic and related travel and meeting restriction, the commission only met once in 2020. This group has only five members: the Deputy Director for the Department of Public Safety, a crime laboratory manager, a chief of police, a prosecutor, and a defense attorney.

Its mission is broad: It will provide an independent review of state-funded laboratories and ("shall have the power to") do the following: (1) access capabilities and needs, (2) authorize independent investigations into allegations of serious negligence or misconduct, (3) appoint investigative teams, (4) recommend changes for agencies found to be negligent, (5) assess the capabilities and needs of laboratories regarding quality and timely services, and (6) issue reports to the Director of the Department of Public Safety.

This Commission's annual reports summarize activities and suggestions to improve the reviewed laboratories. As of 2012, Missouri law requires that laboratory reports and testimony must be from accredited laboratories. This accreditation is to be provided by an organization approved by the Department of Public Safety.⁸⁶

The Crime Lab Review Commission has five members, most of whom are gubernatorial appointments:

- Director of the Department of Public Safety
- Prosecutor
- Defense attorney
- Senior manager from an accredited crime laboratory
- Member of law enforcement in a management position

This state requires accreditation.

Statute: 650.059. RSMO, 2009

Contact: The Missouri Crime Laboratory Review Commission at <https://dps.mo.gov/dir/crimelabreviewcommission.php>

Montana

Montana has a 13-member Forensic Science Laboratory Advisory Board that was not statutorily created but was instead created as a Coverdell-required independent investigative body. Although this Board generally only meets annually, its major activities include community outreach and training.

Contact: AnnaLisaMartin@mt.gov

Also see their website: <https://dojmt.gov/crime/forensic-science-laboratory-advisory-board/>

⁸⁶ MO Rev Stat § 650.060 (2016).

Nebraska

The Nebraska Forensic Science Laboratory Advisory Board⁸⁷ was formed in 1996 and is composed today of a similar cross-sectional membership of:

- criminal justice community members
- representatives of city, county, tribal and state law enforcement
- coroners
- prosecuting and defense attorneys
- Department of Corrections
- Montana Board of Crime control (a statewide coordinating agency)

The Advisory Board convenes annual meetings to discuss the status of the state forensic science laboratory, national trends in forensics, updates and future directions for each of the scientific disciplines, and lab wide operations. Staffing, incoming caseloads, turnaround times, accreditation and goals for improvement are also within the oversight of the Advisory Board. As a requirement for some federal funding, the board serves as an independent body capable of investigating allegations of serious negligence or misconduct; but primarily it is used as a communication link between the lab and our criminal justice partners. The board and the relationships developed throughout the state have been invaluable and have contributed greatly to recent lab successes and to an improved laboratory image in our criminal justice community.

Statute: N/A

New Jersey

In 2006, the New Jersey Attorney General published a law enforcement directive to establish a New Jersey Forensic Science Commission following the May 17, 2004 opening of the New Jersey Forensic Science Center, a state-of-the-art forensic laboratory that is part of the Department of Law and Public Safety and located in Hamilton Township, which provides critical technology to assist law enforcement in crime scene investigations and crime solving.⁸⁸ The Attorney General ordered that a Forensic Science Commission be created in the Department of Law and Public Safety. The Commission would consist of thirty-two (32) voting members appointed by the Attorney General, including representatives selected from among state and county forensic experts, forensic pathologists, forensic toxicologists, prosecutors and crime scene examiners. The Attorney General would also designate the chairperson(s) and vice-chairperson of the Commission and fill vacant positions of the Commission.

The Commission shall promulgate a plan for best practices of forensic science and crime scene investigation to include laboratory accreditation, establishing best practices and recommendations for evidence collection and submission, criminalistic examinations, laboratory protocols and testing procedures in every major forensics area and by establishing training recommendations for staff and creating a “flow- scheme” for forensic evidence processing.

As of May 2022, a New Jersey Forensic Science Commission has not been created.

New York

In 1994, New York became the first state commission mandating accreditation of forensic labs as an important foundation of sound forensic work. The legislation created the New York State Commission on Forensic Science to develop a program of accreditation for all forensic laboratories. This accreditation includes approval of laboratory methodologies and established minimum qualifications for laboratory directors. The goals of this enabling legislation included increasing the “effectiveness, efficiency, reliability and accuracy” of forensic work and promoting increased cooperation and coordination among forensic laboratories and other agencies in the criminal justice system.⁸⁹ The statute’s objectives also identified issues relating primarily to DNA, including the need to ensure compatibility with other state and federal laboratories to the extent necessary to share information, data, and results of forensic analyses and tests. Administrative responsibility for the Commission was placed within the Division of Criminal Justice Services (DCJS), and the OFS was created within that Division. This office also oversees the DNA database. The Commission has 14 members who are scientists, criminal justice agency heads, academics, and attorneys (both prosecution and defense.) The DNA Subcommittee, which was created at the same time as the Commission, was given sole authority over DNA laboratory accreditation and methodologies. This seven-member subcommittee is composed of all scientists with legislatively defined specific areas of expertise.

The State Commission on Forensic Science has 14 members, most of whom are gubernatorial appointments, have 3-year terms, and are subject to reappointment:

- Commissioner of the New York DCJS (serves as Chair)
- Ex officio Commissioner of the Department of Health (or designee)
- Chair New York state crime laboratory committee
- Director of a forensic laboratory in New York
- Director of the Office of Forensic Services, DCJS
- Two scientists with experience in laboratory standards or quality assurance (from the list provided by the Commissioner of Health)
- Law enforcement (from the list provided by the Commissioner of Criminal Justice Services)
- Prosecution (from the list provided by the Commissioner of Criminal Justice Services)
- Public criminal defense bar (from the list provided by the public defense organization)
- Private criminal defense bar (from the list provided by the defense attorney organization)
- Two members-at-large: one recommended by the president of the senate and one recommended by the speaker of the assembly
- Attorney or judge with a background in privacy issues and biomedical ethics (from the list provided by the Chief Judge of the Court of Appeals)

⁸⁷ Legislative Report 601. Special Committee to determine the need for a regional accredited forensic crime laboratory in the Omaha area. June 1, 2016. https://nebraskalegislature.gov/pdf/reports/committee/select_special/lr601/lr601_2016.pdf

⁸⁸ New Jersey Attorney General Law Enforcement Directive 2006-1. Establishment of the Forensic Science Commission. <https://www.nj.gov/oag/dcj/agguide/directives/2006/dir2006-1.pdf>

⁸⁹ New York Executive Law § 995-b.

The statutorily created DNA Subcommittee includes seven scientists, and its chair is appointed by the Commission Chair. This Subcommittee is the sole authority on DNA laboratory accreditation and methodologies.

This state requires accreditation.

Statute: NY CLS Executive Article 49-B § 995-995-F

Contact: forensics@dcjs.ny.gov

North Carolina

North Carolina created the North Carolina Forensic Advisory Board in 2011. This Board consists of a group of scientists and academics, many from outside of the state, who advise the North Carolina State Crime Laboratory (NCSCSL). Its members are appointed by the Attorney General. The composition of the forensic disciplines within the committee is specified in its enabling statute.

Administratively housed within the North Carolina Department of Justice Office of the Attorney General, the Board reviews new scientific programs and methods, protocols for testing, guidelines for court testimony, and qualification standards for laboratory scientists. North Carolina provides community outreach through laboratory tours and observance of North Carolina's Forensic Science Week. It is also very transparent, providing all laboratory case files to its customers via a secure web-based program. Its Quality Assurance Manual, policies and procedures accreditation materials, and audit reports are all available online, as are its Annual Reports to the Joint Legislative Oversight Committee on Justice & Public Safety. The North Carolina statute provides that complaints are received and investigated by an ombudsman.

The Forensic Science Advisory Board has 15 members appointed by the Attorney General with 4-year staggered terms:

- State Crime Laboratory Director
- Forensic scientist with experience in quality assurance
- Chief Medical Examiner
- Forensic scientist in molecular biology
- Forensic scientist in population genetics
- Scientists in forensic chemistry
- Scientists in forensic biology
- Forensic scientist in trace evidence
- Scientist in forensic toxicology; certified by ABFT
- Member of IAI
- Member of the Association of Firearms and Toolmark Examiners (AFTE)
- Member of International Association for Chemical Testing
- Member of ASCLD

- Member of AAFS
- Member of American Statistical Association

This state requires accreditation. The North Carolina General Statute states that accreditation shall be by an “accrediting body that requires conformance to forensic specific requirements and which is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement for Testing” (ISO 17025 for testing laboratories). The current accrediting body for the NCSCL is ANAB.

North Carolina requires individual certification, and the North Carolina General Statute states: “Forensic Scientists I, II, and III, forensic science supervisors, and forensic scientist managers at the State Crime Laboratory shall be required to obtain individual certification consistent with international and ISO standards within 18 months of the date the scientist becomes eligible to seek certification according to the standards of the certifying entity...” There is no certification requirement for local laboratories.

Statute: North Carolina General Statutes. Chapter 114. Article 9. § 114-61 (2013)

Contact: North Carolina Lab Director: Vanessa Martinucci

Also see their website: <https://ncdoj.gov/crime-lab/contact-the-crime-lab/>

Oklahoma

Oklahoma has a Forensic Sciences Improvement Task Force hosted by the Oklahoma District Attorneys Council and is a committee of the Justice Assistance Grant Board (JAG). This Task Force operates as the Coverdell independent investigative body and the committee for the Justice Assistance Grants to Oklahoma. The Task Force provides state plans for forensic laboratories to improve the quality, timeliness and credibility of forensic services. The Task Force also holds an Open House for attorneys and the public to improve their understanding of the forensic services in the state. As of 2005, Oklahoma requires the accreditation of public crime laboratories: 74 OK Stat § 74-150.36 (2020). This statute exempts alcohol/breath, CSI, digital, crime scene reconstruction, marijuana, and latent print analysis. For latent print analysis to be admitted into evidence, it must be conducted by an International Association for Identification (IAI)-certified examiner.

The Task Force includes representatives of forensic agencies across the state that represent both metropolitan areas and medium-sized jurisdictions and consumers of forensic science services. The task force includes representatives from the following agencies:

- District Attorneys Council
- Oklahoma Sheriffs’ Association
- Oklahoma Association of Chiefs of Police
- Ardmore Police Department
- Norman Police Department
- Office of the Medical Examiner
- Oklahoma City Police Department
- Oklahoma State Bureau of Investigation

- Tulsa Police Department

Contact: DAC-Grants@dac.state.ok.us

Contact: Jerry George, jerry.george@dac.state.ok.us

Rhode Island

In 1978, Rhode Island was the first state to create a State Crime Laboratory Commission to oversee the state crime laboratory, which is located at the University of Rhode Island. This statutory authority is broad and specifically provides for oversight, including goals, priorities, budget, and monitoring and evaluation of the general operation of the state crime laboratory. The legislative purpose focused on the need for goals, objectives, and standards for CSI and the coordination of state and local law enforcement agencies. The powers and duties include budget functions of applying for grants and accepting appropriated funds.

The commission itself has five members, two of whom are *ex officio*. They meet quarterly and are tasked with recommending legislation to the governor and legislature. The administration of the state crime laboratory, including budget and personnel, is the responsibility of an Executive Secretary, who is the Dean of the College of Pharmacy at the University of Rhode Island. This Executive Secretary provides reports of these operations to the commission.

The State Crime Laboratory Commission has five members who are gubernatorial appointments, have 2-year terms and are subject to reappointment:

- Attorney General—*ex officio*
- Superintendent of state police—*ex officio*
- Rhode Island Police Chiefs Association representative
- Two public members

Statute: Title 12 Criminal Procedures, Chapter 12-1.1 et seq.

Contact: For the Attorney General, Ex Officio Chair: <https://riag.ri.gov>. The Dean of the College of Pharmacy at the University of Rhode Island is the ex officio Executive Secretary: <https://web.uri.edu/pharmacy/people/>.

Texas

Texas currently has a very active state commission. This characterization is based on its staff (which currently includes a general counsel, two lawyers, and three administrative employees), budget, and breadth of responsibilities. Created in 2005 as an oversight body, one of the TFSC's primary responsibilities is to investigate allegations of professional negligence and professional misconduct that may substantially affect the integrity of the results of a forensic analysis. The Commission's enabling statute also requires the Commission to establish a self-disclosure program that requires crime laboratories that conduct forensic analyses to report professional negligence or professional misconduct to the Commission.⁹⁰ With this focus on the oversight for forensic services in Texas and the passage of an omnibus bill on related criminal justice issues, the legislature also required accreditation for crime laboratories and placed administrative responsibility for that program with the

⁹⁰ Tex. Code Crim. Proc. art. 38.01 § 4(a)(2)

Department of Public Safety with a requirement that laboratories be accredited for certain evidence to be admissible in a criminal action.⁹¹

In 2015, the Texas Legislature transferred oversight authority for crime laboratory accreditation to the TFSC. In 2022, 77 total laboratories (33 located outside of Texas) are accredited by the TFSC. In that same year, the Texas Legislature tasked the Commission with creating the forensic analyst licensing program. Forensic Analysts had to be licensed by January 1, 2019. To date, the Commission has licensed over 1,950 forensic analysts and technicians, and there are 1,342 active forensic analysts and technicians who perform forensic analysis for Texas-accredited crime laboratories. In 2019, the 87th Texas Legislature codified through its enabling statute the Commission's responsibility to adopt a Code of Professional Responsibility for forensic practitioners. Although the Commission had already adopted a Code through its forensic analyst licensing program rules, the legislature further solidified emphasis on Texas' goal for common professional responsibility and ethical principles for forensic practitioners. In addition to its investigative, accreditation and licensing responsibilities, the Commission facilitates statewide forensic training initiatives. The TFSC is an independent agency, but it is administratively attached to the Office of Court Administration. The Office of Court Administration is a unique state agency in the judicial branch that operates under the direction and supervision of the Supreme Court of Texas. The TFSC meets quarterly and has nine members who are gubernatorial appointments, have 2-year staggered terms, and are subject to reappointment:

- Two members who must have expertise in the field of forensic science;
- One member who must be a prosecuting attorney that the governor selects from a list of 10 names submitted by the Texas District and County Attorneys Association;
- One member who must be a defense attorney that the governor selects from a list of 10 names submitted by the Texas Criminal Defense Lawyers Association;
- One member who must be a faculty member or staff member of The University of Texas who specializes in clinical laboratory medicine that the governor selects from a list of five names submitted by the chancellor of The University of Texas System;
- One member who must be a faculty member or staff member of Texas A&M University who specializes in clinical laboratory medicine that the governor selects from a list of five names submitted by the chancellor of The Texas A&M University System;
- One member who must be a faculty member or staff member of Texas Southern University that the governor selects from a list of five names submitted by the chancellor of Texas Southern University;
- One member who must be a director or division head of the University of North Texas Health Science Center at Fort Worth Missing Persons DNA Database; and
- One member who must be a faculty or staff member of the Sam Houston State University College of Criminal Justice and have expertise in the field of forensic science or statistical analyses that the governor selects from a list of five names submitted by the chancellor of the Texas State University System.

The governor designates the chair.

Standing Committee

Licensing Advisory Committee – Advises the Commission and makes recommendations on matters related to the

⁹¹ Tex. Code Crim. Proc. art. 38.35.

licensing of forensic analysts. See statute at § 4-b.

Subcommittees

- Forensic Development
- Legislative Development
- Complaint Screening
- Investigative Panels
- Ad Hoc Discipline Case Review Panels

This state requires accreditation.

Statute: Tex. Code Crim. Proc. art. 38.01 et seq.

Contact: <https://www.txcourts.gov/fsc/>

Virginia

Virginia created two boards by statute in 2005. The Forensic Science Board, which consists of 15 members, includes stakeholders, customer base and representatives from the state agencies, Supreme Court of Virginia and legislature, and two members from the Scientific Advisory Committee. Serving as a policy board for the Virginia Department of Forensic Science (DFS), it is required (has the “power and duty”) to provide program and fiscal standards and goals; establish long-range programs for new technologies; advise the Governor, Director of the Department, and the General Assembly on matters relating to the DFS in general; and act on recommendations of the Scientific Advisory Committee. (The DFS is the primary provider of public forensics in Virginia.) The Board also monitors funds and contracts, approves grants, and recommends actions to “foster and promote coordination and cooperation between the DFS and the user programs that are served.”⁹²

Forensic Science Board

Fifteen members who are gubernatorial appointments:

- Superintendent of Virginia State Police (or designee)
- Director of the Department of Criminal Justice (or designee)
- Chief Medical Examiner (or designee)
- Executive Director of the Board of Pharmacy (or designee)
- Attorney General (or designee)
- Executive Secretary of the Supreme Court of Virginia (or designee)
- Chair of the Virginia State Crime Committee (or designee)
- Director of the Division of Consolidated Laboratory Services (or designee)
- Chair of the Senate Committee for Courts of Justice (or designee)

⁹² Code of Virginia § 9.1-1110.

- Chair of the House Committee for Courts of Justice (or designee)
- Two members of the Scientific Advisory Committee
- Three citizens (by gubernatorial appointment): a member of law enforcement, a member of the Virginia Commonwealth's Attorneys Association and a criminal defense attorney with forensic science expertise

Virginia Scientific Advisory Committee

Thirteen members who are gubernatorial appointments:

- DFS Director
- 12 scientists (by gubernatorial appointment)

Discipline Case Review working groups are in existence.

Virginia's state laboratory in the DFS is accredited.

Statute: Va Code Ann. § 9.1-1109 and § 9.1-1111

Contact: Secretary to the Forensic Science Board and Scientific Advisory Committee: Carisa Studer,
carisa.studer@dfs.virginia.gov

Washington

Washington created its Forensic Investigation Council in 1983 focusing primarily on oversight of the state crime laboratories, the state toxicology laboratory, and the funding of the death investigations system (Washington has a coroner system). Its powers and duties include overseeing any state forensic pathology program and recommending cost-efficient improvements to the death investigation system to the legislature. These responsibilities specifically relate to several of its legislative purposes, including the funding of the death investigation system. The Council also establishes qualifications for the Director of the Bureau of Forensic Laboratory Services and assists in the appointment of the state toxicologist.

The Washington State Forensic Investigations Council has 13 members who are gubernatorial appointments:

- Coroner
- Prosecutor
- Prosecutor who also serves as ex officio county coroner
- Medical Examiner
- Sheriff
- Chief of Police
- Chief of Washington State Patrol
- Two county legislators
- Two city legislators
- Private pathologist

- Criminal defense attorney

Statute: 1983; RCW Chapter 43.103

Wisconsin

In 2018, a group of University of Wisconsin university professors published, “Establishing a forensic science commission in Wisconsin,” in the *Journal of Science Policy & Governance* stating that Wisconsin like many other states had yet created a forensic science oversight body to (1) improvement of scientific clarity and standards of forensic methods, and (2) evaluation of current and future forensic practices. The authors cited that a commission with a strong scientific foundation can bolster the credibility of the criminal justice system, safeguard against wrongful convictions, and ensure public safety, and, ultimately, improve the soundness of forensic science, certify forensic facilities, and investigate major complaints.⁹³

On September 10, 2020, the Attorney General for the state of Wisconsin issued a letter thereby establishing the Division of Forensic Science Submission Advisory Committee to provide a forum to address and collaborate on issues and concerns relating to the Wisconsin State Crime Laboratory’s (WSCL’s) evidence submission guidelines and their impact on the criminal justice system. The Advisory Committee has no legal responsibilities but provides input to the WSCL regarding the effectiveness and impact of the guidelines with respect to court proceedings.

Advisory Committee members who are not employed by the Wisconsin DOJ (WiDOJ) are appointed for a 1-year term. The Advisory Committee consists of at least 10 members appointed by the Attorney General or their designee, and the membership constitutes a cross-section of Wisconsin’s criminal justice community and may include the following:

- Administrator of the WiDOJ Division of Forensic Sciences, or their designee, who shall serve as Chair of the Advisory Committee
- Deputy Administrator of the WiDOJ Division of Forensic Sciences, or their designee, who shall serve as Secretary of the Advisory Committee
- WiDOJ Division of Forensic Sciences Case Manager
- A judge or court administrator who presides over criminal cases
- The president of the Wisconsin District Attorneys Association or their designee
- State Public Defender or their designee
- United States Attorney from the Eastern District of Wisconsin or their designee
- United States Attorney from the Western District of Wisconsin or their designee
- President of the Wisconsin Chiefs of Police Association or their designee, provided that the designee is currently serving as a chief of police in the State of Wisconsin
- President of the Badger State Sheriffs Association or their designee, provided the designee is currently serving as a sheriff in the State of Wisconsin
- Any other person selected by the Attorney General

Statute: N/A

⁹³ <https://www.sciencepolicyjournal.org/uploads/5/4/3/4/5434385/bratburd.pdf>

The NIJ Forensic Technology Center of Excellence

RTI International (RTI) and its academic and community based-consortium of partnerships, including its Forensic Science Education Programs Accreditation Commission partners, work to meet all tasks and objectives put forward under the National Institute of Justice (NIJ) Forensic Technology Center of Excellence (FTCoE) Cooperative Agreement (award number 2016-MU-BX-K110). These efforts include determining technology needs; developing technology program plans to address those needs; developing solutions; demonstrating, testing, evaluating, and adopting potential solutions into practice; developing and updating technology guidelines; and building capacity and conducting outreach. The FTCoE is led by RTI, a global research institute dedicated to improving the human condition by turning knowledge into practice. The FTCoE builds on RTI's expertise in forensic science, innovation, technology application, economics, data analytics, statistics, program evaluation, public health and information science.



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Information provided herein is intended to be objective and is based on data collected during primary and secondary research efforts available at the time this report was written. Any perceived value judgments may be based on the merits of device features and developer services as they apply to and benefit the law enforcement and forensic communities. The information provided herein is intended to provide a snapshot of current alternate light source developers and a high-level summary of available devices; it is not intended as an exhaustive product summary. Features or capabilities of additional instruments or developers identified outside of this landscape may be compared with these instrument features and service offerings to aid in the information-gathering or decision-making processes. Experts, stakeholders, and practitioners offered insight related to the use of alternate light sources for law enforcement agencies.

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