

WITHDRAWN

AMERICAN BAR ASSOCIATION

CRIMINAL JUSTICE SECTION

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

1 RESOLVED, That the American Bar Association urges
2 federal, state, local and territorial governments to provide
3 sufficient funding, infrastructure, equipment and other
4 support necessary to:

- 5
- 6 1. Facilitate basic and applied scientific research to
7 improve, validate, and set standards for various
8 forensic science disciplines; annually assess and
9 establish a prioritized agenda of research and
10 other needs; identify and evaluate already
11 existing but not yet published research to
12 forensic science disciplines and make such
13 research publicly available; scientifically
14 validate forensic science disciplines or methods
15 where such validation or the limits of specificity
16 are unclear or in doubt; develop future
17 technologies and methods that will assist in
18 answering questions posed in criminal

19 investigations or that will increase laboratory
20 capacity to meet the demand for forensic science
21 services and the means to meet such demands;
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23 2. Require mandatory accreditation of all
24 government and private forensic laboratories and
25 forensic service providers that offer examination
26 conclusions, interpretations or testimony to the
27 recommended ISO 17025 standard or other
28 similarly appropriate accreditation standard; and
29 to include reasonable timeline and enforcement
30 provisions for implementation and compliance.
31

32 3. Develop and make available effective and
33 enforceable programs for certification of
34 qualified laboratory analysts, examiners,
35 identified forensic science service providers and
36 others who offer examination conclusions,
37 interpretations or testimony consistent with the
38 recommended standards of accreditation (2.
39 above), the proposed national code of ethics (7.
40 below) and other standards recommended in this
41 resolution;
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43 4. Develop standards for the development of
44 validated protocols encompassing best practices
45 for analysis by discipline and method, including

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46 standards for such rigorous quality assurance and
47 quality control measures as internal peer review;
48 maintenance of appropriate testing or
49 examination documentation to facilitate external
50 peer review by other experts and internal and
51 external performance audits; regular proficiency
52 testing; and corrective action procedures when
53 proficiency testing or case work errors are
54 discovered;
55

- 55 5. Adopt standards regarding the communication of
56 scientific testing results whether by written
57 report or oral testimony, including wherever
58 possible, uniform terminology and report
59 content;
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- 61 6. Adopt standards that reasonably ensure public
62 and private laboratory management and staff is
63 free from undue pressure, internal or external,
64 commercial or financial, that may affect the
65 quality or integrity of the laboratory examination
66 or analysis;
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- 68 7. Develop a national code of ethics for all forensic
69 science disciplines to be adopted by forensic
70 science societies, accrediting organizations and
71 certification entities as an enforcement
72 mechanism for compliance;
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- 74 8. Conduct research into the study of human error,
75 contextual and confirmational bias and methods
76 and strategies for overcoming such limitations;
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- 78 9. Provide necessary incentives to encourage
79 students in physical and life sciences to pursue
80 studies in fields critical to forensic sciences;
81 establish standards for forensic science education

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82 programs; develop funding mechanisms and
83 incentives to encourage student entry into service
84 in the forensic sciences including forensic
85 pathology, and other enhanced undergraduate,
86 graduate and continuing education opportunities;
87 and

- 88
- 89 10. Develop and implement or facilitate the
90 implementation of standards and programming
91 for the training of law enforcement, lawyers and
92 judges in forensic science.

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94 FURTHER RESOLVED, That the American Bar
95 Association urges Congress to provide funding to the
96 National Institute of Forensic Science (NIFS) to prepare,
97 in conjunction with the Centers for Disease Control and
98 Prevention and the Federal Bureau of Investigation,
99 forensic scientists and crime scene investigators for their
100 potential roles in managing and analyzing evidence from
101 events that affect homeland security, so that maximum
102 evidentiary value is preserved and the safety of these
103 personnel is guarded. This preparation also should include
104 planning and preparedness (to include exercises) for the
105 interoperability of local forensic personnel with federal
106 counterterrorism organizations.

108 FURTHER RESOLVED, That the American Bar
109 Association urges federal, state, county, local and
110 territorial governments to enact legislation and provide
111 necessary funding requiring all offices charged with the
112 duty of conducting medico-legal death investigations to
113 meet mandatory accreditation or professional practice
114 standards within a reasonable time frame; provide for the
115 development of appropriate standards in consultation and
116 collaboration with the National Institute of Health and its
117 Center for Disease Control and Prevention (CDC), the
118 National Association of Medical Examiners, and the
119 American Board of Medico-legal Death Investigators;
120 adopt a standard in which such death investigations are
121 conducted under the supervision of a board certified
122 forensic pathologist; and ensure that all death
123 investigation facilities meet current CDC requirements.

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125 FURTHER RESOLVED, That the American Bar
126 Association urges Congress to enact legislation and
127 authorize and appropriate funds necessary to achieve the
128 nationwide interoperability of the Automated Fingerprint
129 Identification System (AFIS); adopt the fifteen
130 recommendations made by the 2008 National Academy of
131 Sciences report *Ballistic Imaging* for improving the
132 effectiveness of the National Integrated Ballistic
133 Information Network (NIBIN) through operational and

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134 technological improvements; develop and implement
135 training for law enforcement officers and evidence
136 collection units in optimizing the effectiveness of NIBIN;
137 and facilitate the development and implementation of a
138 systems interoperability strategy for current and future
139 forensic database systems.

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141 FURTHER RESOLVED, That the American Bar
142 Association urges federal, state, local and territorial
143 governments, legislative bodies and courts to provide the
144 funds and other resources necessary to assure that in
145 criminal cases an accused is able to obtain the testing or
146 re-testing of evidence and experts which meet the
147 accreditation and certification requirements listed herein,
148 to provide testimonial or other assistance to the defense
149 when necessary to assure the accused a fair trial or
150 sentencing proceeding.