

Guide to Best Practices for Development of State Forensic Science Boards

National Association of Forensic Science Boards

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What is the National Association of Forensic Science Boards?

The mission of the NAFSB is to disseminate and exchange best practices, research, expertise, data, and lessons learned among state-level forensic science boards and commissions governing the forensic science community.

The National Association of Forensic Science Boards (NAFSB) is a grass-roots initiative to ensure that State-level forensic science boards are best positioned to benefit forensic science. The NAFSB provides a grassroots forum for these groups to communicate and share their different experiences and identify best practices that are most applicable to each state's unique circumstances. For states that are considering changes to the structure of their board or developing a new board, the NAFSB can provide information about what has and has not previously worked in regard to structures, memberships, stakeholder engagement, and outcomes. The NAFSB is not a federal entity or a national governing body.

We have developed this best practices document to guide anyone with an interest in the development of a new or existing forensic science board at the state level in the United States. These best practices represent a consensus among NAFSB leaders who have been involved in the process of developing forensic science boards or providing leadership within the forensic science community. The reader is advised that neither the NAFSB or other organizations have research data about the "best" approach to board development in every situation. In fact, we recognize that every situation is unique and will require careful consideration of each state's forensic science environment. We hope that this guide will help you learn about the value of state boards and avoid some common pitfalls others have encountered from hard experience. We also hope that you join us and become a member of the NAFSB to support our work on behalf of forensic science improvement!

Before we begin

There are some basic principles to keep in mind as you consider the journey ahead. First, the main reason for a board to exist is to foster collaboration. The board is a venue to get people together to consider important issues and make a positive difference. By necessity, a successful effort to develop a forensic science board will be inherently collaborative also. It will involve the difficult process of including and engaging with a broad array of interests. Many of those interests will be in conflict. This is especially true in the criminal justice context, which relies on the adversarial court system in the United States. Despite the fact that these interests may lack trust for each other, they all have a common interest in using reliable forensic science to improve public trust in the criminal justice system. Even if it may be difficult or frustrating, advocates for forensic science improvement should always

have a collaborative mindset with every forensic scientist and every user of forensic science.

Second, collaboration and trust are enabled by transparency. Your work and intent should be clear to everyone engaged in the process. Nobody should feel marginalized by the process of developing a forensic science board. There is no such thing as perfect collaboration or transparency, but your efforts to foster these principles will pay dividends in positive perceptions among the broad range of stakeholders.

At some point, a successful process will converge on a particular structure and set of responsibilities for the forensic science board. The process will have required both patience and compromise on the part of the many people involved. Nonetheless, keep in mind that the process is never really over! Boards will evolve over time based on the changing needs within a state and the general environment in the forensic sciences.

These lessons learned are presented as steps along the process for the development of a forensic science board. In other words, these lessons are the order in which the various steps should be considered. The NAFSB recognizes that every process is unique, and there is no such thing as a step-by-step “recipe” for success.

Lesson 1. Start with a clear understanding of the current environment in your state among forensic science service providers (FSSPs).

FSSPs should have quality assurance mechanisms in place to support the reliability of forensic science reports and testimony. These practices may include accreditation, certification, and review policies. A forensic science board should complement and reinforce existing quality assurance processes. The most effective boards will use their role to provide long-term support for the most effective quality assurance processes and help FSSPs implement those processes as uniformly as possible.

You may be interested in the development of oversight responsibilities for a board in your state. It is important that you take into account existing oversight bodies, which may include executive, legislative, and even judicial authorities. These entities may have jurisdictional or organizational control over the state laboratory or other FSSPs in the state. Historically, these existing authorities will be reluctant to support a forensic science board that they see as undermining their role. Instead, an effective board will support these other authorities by providing objective advice and complementary capabilities that are lacking elsewhere. For example, a board with scientific expertise may help FSSPs understand and implement new methods or technologies. Further, it will be necessary for a board to build trust with existing authorities and FSSPs before advocates will be successful in promoting a broader role.

Lesson 2. Answer the “why” question about the need for a forensic science board.

In some cases, forensic science boards have been established after the discovery of deficiencies in forensic science practice or other crises. Although the NAFSB recognizes that a board may be a reasonable response in those cases, we encourage a more “proactive” as opposed to “reactive” approach in the establishment of board. In other words, the board should be established to meet specific goals to support FSSP’s and gaps that may undermine the reliability of forensic science. Any reaction to a specific incident should include a deep understanding of the root causes and system deficiencies that led to the problem. In part, this means that a board will likely be one reform among a broader group of ideas to support reliable forensic science in the state. The board’s most important role may be to implement and foster the broader reforms that are needed.

Ideally, a forensic science board is established outside of the needs of a particular crisis. A proactive approach provides the time and space for the board to be developed for long-term success. If you advocate for the development of a board, you should have a clear understanding of the reasons why a board—as opposed to some other idea—will solve the problem that concerns you. If you follow lesson 1, you will have a good understanding of the current picture and why it needs improvement. You may need to adjust your views about the structure and role of a board as you move forward and gain a better understanding of the current environment in your state.

Lesson 3. Clearly define the activities and authorities of the board.

Every forensic science board is unique because every state has a different history and environment. There are several aspects that are needed to “define” a board, and the first step should be a clear understanding of the activities of the board. You should keep in mind that the activities of the board should be closely tied to lesson 2, the reasons why the board needs to be developed in the first place. Current boards engage primarily in the following categories (though it is rare that any single board plays all of these roles):

1. Advice: Boards advise forensic science organizations, stakeholders, or policymakers concerning forensic science improvement.
2. Collaboration: Boards may foster collaboration among forensic scientists, forensic science organizations, or criminal justice practitioners to improve the use of forensic science.
3. Training: Boards may produce or facilitate professional development among forensic scientists or stakeholders.

4. Accreditation and quality assurance: Boards may require or support accreditation and quality assurance within forensic science organizations.
5. Standards: Boards may require or support the implementation of consensus standards within forensic science organizations.
6. Complaints or self-disclosures: Boards may review complaints or provide a forum for transparency when problems occur within forensic science organizations and establish recommendations or actions based on their review.¹
7. Policies and procedures: Boards may establish or review policies and procedures within forensic science organizations or among stakeholders who use forensic science.
8. Funding: Boards may produce reports or recommendations concerning resources, grants, or needs within forensic science organizations. These activities may include allocation of federal grant funds.
9. Licensing: Boards may establish and implement licensing or professional certification programs for forensic science professionals.
10. Personnel: Boards may be responsible for the selection of the state medical examiner or the director of the state crime laboratory.

Each activity should be closely tied to the situation in a state. For example, a large state may require a board that includes the ability to foster collaboration and information sharing. A small state may require a board that emphasizes expert advice not available inside the state. The NAFSB recommends that all boards play an advisory role to support FSSPs, even if they also have functions related to oversight.

Lesson 4. The membership of the board should reflect its activities and the reasons why the board is needed.

Regardless of other considerations, the NAFSB recommends that a board balance the interests of the forensic science community in the state. In other words, the primary purpose of the board should be the enhancement of the reliability and use of forensic evidence. The development of a board should not be seen as an opportunity to enhance or reduce the power of any particular interest. A successful board will open lines of communication and cooperation in an environment outside of the adversarial court process so that consensus can be reached to advance needed initiatives. In addition, the NAFSB recommends that forensic scientists play a major role in the development and work

¹ The federal Paul Coverdell Forensic Science Improvement Grants Program requires grantees to certify that an entity exists to conduct investigations into complaints about laboratory negligence or misconduct affecting the integrity of the forensic results. With appropriate staffing and support, a forensic science board may be used for this purpose.

of a board. Just as other professionals have an interest in the state boards related to their work, forensic scientists will want and deserve a voice in a forensic science board.

There are several types of membership structures for a board.

1. A stakeholder board will consist primarily of forensic scientists and broadly defined community of users of forensic science in a state. A stakeholder board will be designed to improve the working relationship among FSSP's and their customers. These customers may include anyone who uses forensic science, including law enforcement, prosecutors, defense lawyers, judges, and the public. As with a board's activities, the user community should be defined by the needs the board is fulfilling.
2. An advisory board will consist of experts who enhance the understanding of key issues in forensic science improvement. The experts may include scientists in a particular discipline or issue area, such as statistical analysis or cognitive science. Ideally, the experts should include individuals with knowledge or experience in the forensic sciences. For example, a crime laboratory director from outside the state may play a positive role from his or her experience in a different context.
3. An oversight board should include a balanced group of trusted individuals who represent the interests of users of forensic evidence, the public, and other authorities with oversight responsibilities. Here, balancing factors will include political factors, including executive, legislative, and judicial interests. Balancing factors may also include: demographics, advocacy groups (such as innocence or victim organizations), and prosecution/defense. In any case, the makeup of the board must be sufficient to build trust among the stakeholders who are expected to support the development of the board and avoid conflicts of interest.

In some cases, boards are structured to reflect considerations that cross these boundaries. Also, some jurisdictions have chosen to have multiple boards that separate these structures and recruit members who reflect the divergent roles. Finally, some jurisdictions will choose to use existing boards with a broader mandate outside of forensic science to fulfill the responsibilities. For example, many states have a criminal justice coordinating council that oversees grant funding and allocation, including funding related to forensic science.

Lesson 5. Determine the support system for the forensic science board.

A forensic science board should be organized in a government agency with a direct interest in the work of forensic sciences. Many observers are justifiably concerned that FSSP's should be independent enough so that their scientific integrity is not compromised. Such

concerns should not be used as a basis to organize boards under parts of state government that will not prioritize and appreciate the work of FSSP's. Further, boards will need staff and other resources to support their work. The host agency for a forensic science board will provide those resources within limited state budgets. If the host agency does not see the value in the board, it will be difficult to sustain budgetary support so that the board can continue to operate effectively.

There are several options for the host agency. Advisory boards are often closely linked to the state laboratory. Boards with oversight responsibilities may be tied to the judiciary, Attorney General, law enforcement, or an independent agency. The independence of a board may be established by the way it is organized with its host agency, its membership, or by the way it is authorized under statute. In other words, it is important for the board to have support from an engaged host agency and the broad perception of independence.

Some observers have advocated that crime laboratories or forensic science boards be organized under health departments or similar entities. In some states, public health authorities sit on boards as *ex officio* members to provide input into issues of common interest, such as medicolegal death investigation or DNA analysis. In other cases, health departments have not been successful in playing a direct oversight role due to shortfalls in long-term engagement and the inherent differences between public health and forensic science.

Lesson 6. Start with a planning group.

The development of a forensic science board is a complex undertaking. More than anything else, it requires careful building of a consensus framework that meets the needs of a state. The NAFSB recommends that new boards—especially those with more than advisory responsibilities—start with a planning group that tackles the key issues as outlined in this best practices document. It may be difficult to weigh the various factors that impact the structure of a board and its authorities. Further, it will be very difficult to bring all of the interests in a state together to resolve any differences about the mission of a forensic science board and any misperceptions about the intent behind the development of a board.

A planning group can include a broader array of interests than the final forensic science board. The planning group's purpose will be two-fold. First, it will do the hard work of establishing the why, what, and who of the board, i.e., its rationale, activities, and membership. Just as importantly, it should address the political issues across FSSP's and the users of forensic services in a state. As discussed elsewhere in this guide, the independence of a board is important, but it is also important that the people affected by

the development of a board do not feel marginalized or “frozen out” of having a say about forensic science. Ideally, the final structure of a board facilitates the reliability and effectiveness of forensic science services and continuously provides a way for stakeholders to have a meaningful voice in forensic science improvement. The planning group’s mission will be to make sure the final product meets both goals.

Lesson 7. Don’t overdo it.

Many attempts to establish boards have failed because advocates have attempted to create their ideal version of forensic oversight. Although these motivations are understandable—especially if a board is established in the wake of a major crisis—an overly ambitious proposal may create negative reactions among stakeholder groups due to the perception of overreach. If you have followed this best practices guide, you will have a plan for a group that fits the needs of your state and has a clear rationale and structure based on that rationale. Thus, you will have a board proposal that is much more likely to garner support because it is closely tied to the needs of your state.

Also, a new board may not have the capacity to fulfill an idealized vision of its advocates. If the board is given responsibilities that it lacks the resources or expertise to carry out, the board will lose trust among both its advocates and the forensic science community. Over time, a board may accrete new responsibilities as it builds trust and capabilities. This process is inevitable for a successful board because there will be issues in forensic science improvement that will arise over the years that will be amenable to board support. This natural evolution is preferable to a one-size-fits-all or overly ambitious mission at the outset. It may be difficult to revisit the structure of a board in the future. Key advocates may change quickly due to shifts in the political environment. For that reason, the legislature may choose to pass an authorizing statute for the board that empowers the Governor or other authority to change the structure or responsibilities of the board under certain circumstances.

Also, it may be difficult to structure the membership of a board to include all of the interests and expertise required to fulfill the mission of the board. Nonetheless, extremely large boards may not be effective. Large boards can have difficulty gaining consensus on key topics or ensuring that all members have a real voice in the room. It is usually more appropriate to have a board with a manageable size that represents the key interests in the state related to forensic science. The board can establish subcommittees or other mechanisms to address specific issues or needs. The board can also solicit public comment or other feedback to ensure that it is basing its work on the best possible information and keeping active and healthy channels of communication open with its constituents.

Lesson 8. Every board should be an advisory board.

All boards should include the ability to provide independent expertise to the forensic science community in a state. FSSPs are facing increasing demand for services. They are also facing increasing pressure to adopt new methods, standards, and science. All FSSPs work within resource limitations, including limits relating to staff and expertise. In this environment, a forensic science board can provide critical advice that facilitates forensic science improvement. The advice can include any of the following:

1. Leadership guidance and mentoring for crime laboratory management.
2. Budget guidance, including assistance with identifying grant opportunities.
3. Research support, especially if the board maintains productive ties with universities within the state.
4. Quality assurance, including support for accreditation and audit compliance.
5. Standards implementation, including review of standard operating procedures.
6. Facility improvements.
7. Training and education programs, including efforts to improve the understanding of forensic science among users of forensic science services.
8. Annual reviews, such as a “state of forensic science in our state” report that helps policymakers understand the needs of FSSP’s.

State forensic boards have played an advisory role in all of these areas in the past. These activities are important, direct contributions to forensic science improvement. They also provide a way for a board to build trust and connections across a state.

Lesson 9. Train the board.

Many board members may have minimal knowledge or experience in the day-to-day work of forensic science in an FSSP. Even forensic science experts will not have knowledge about every aspect of forensic science work. Therefore, it is important that the board members are able to access training to help them understand these issues. Board members should also have opportunities to attend forensic science conferences and visit FSSP’s in the state (and outside the state, ideally). The training should be structured to provide information to support the board’s mission.

Training resources include:

- NAFSB’s website, www.nafsb.org
- American Society of Crime Laboratory Directors (www.asclld.org)
- American Academy of Forensic Sciences (www.aafs.org)
- National Institute of Standards and Technology

- Home page (<https://www.nist.gov/forensic-science>)
- Center for Statistics and Applications in Forensic Evidence (<https://forensicstats.org/>)
- Organization of Scientific Area Committees for Forensic Science (<https://www.nist.gov/organization-scientific-area-committees-forensic-science>)
- NIJ and NIJ-funded forensic science centers
 - NIJ (<https://nij.ojp.gov/topics/forensics>)
 - Forensic Technology Center of Excellence (www.forensiccoe.org)
 - National Center on Forensics (<https://nij.ojp.gov/program/national-center-forensics/overview>)
 - Research Forensic Library (<https://forensiclibrary.org/home>)

The most important training resources will be the FSSP's in your state and other forensic science boards. The NAFSB maintains a list of current forensic science boards on its website.

Lesson 10. Connect with your colleagues.

The NAFSB created this guide to best practices as an introduction to this very complex topic. Every NAFSB member is constantly learning new ways to foster forensic science improvement and lessons about the best approach to the development of forensic science boards in various contexts. We encourage you to connect with us—your new colleagues—by joining the NAFSB and participating in our conferences and other activities. We hope to learn from you just as much as you learn from us!