

## Message from the Regulator



I am sure that most of you know by now that I will shortly reach the end of my six-year period as the Forensic Science Regulator. During this time I was also appointed as the Surveillance Camera Commissioner. I finish in both roles at the end of February next year.

The Home Secretary has agreed to recruit a Forensic Science Regulator and a Surveillance Camera Commissioner as separate roles. There is likely to be a period between my departure and the new Forensic Science Regulator taking up their post; the Minister is currently reviewing a proposal for an interim arrangement. But, of course, my forensic science team remains firmly in place, and as they lead on much of the standards writing and complaint investigations I am confident that they will provide sound continuity and support to both the interim decision maker and, in due course, the new Regulator.

It has been an extraordinary time for me as I have worked closely with many of you to shape and drive changes to forensic science quality standards. I could not have achieved most of the work we have completed without the incredible support and help many of you have given. I am very grateful for that. I will be in touch with many of you individually before I move on. I can now confirm that I will be taking up a part-time post as a Commissioner with the Criminal Cases Review Commission in March.

Finally, the Home Office has published a consultation paper seeking views on whether the Regulator role should be placed on a statutory footing. I encourage you to read the paper and to submit your views. Details can be found on the Home Office website available [here](#).

Best wishes for Christmas and the forthcoming new year from me and my team.

Andrew Rennison  
Forensic Science Regulator

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## DNA deadline – autumn 2013

Police forces are to be congratulated for stepping up to the challenge of achieving accreditation to ISO17025 for DNA laboratory activities; the project team at the Centre for Applied Science and Technology (CAST) reported that almost all forces were now either accredited or outsourcing this activity. This requirement remains incorporated in the Codes of Practice and Conduct irrespective of other external decisions.

The next big challenges for achieving accreditation to the Codes are fingerprint development (many police forces have already managed to achieve the required standard) and digital data recovery.

Colleagues are advised that the Codes (2011) are still in force and available [here](#).

The second edition of the Codes is currently in draft, which the Regulator intends signing off in the new year.

## The use of casework material

A number of years ago the, then, Director of Public Prosecutions established a Crown Prosecution Service (CPS) policy that the use of casework material (and by implication data) in research, development and validation was unacceptable. This decision was, obviously, based on the circumstances prevailing in 2007.

The Regulator took the view that such a prohibition created risks for the provision of forensic science to the criminal justice system (CJS). He therefore commissioned the development of a protocol between the Association of Chief Police Officers (ACPO), the CPS and the Regulator, which would create an environment within which such use could occur.

This has proved to be a complex process but the work is continuing. The Regulator hopes to have a final decision from the CPS within the next few months as to whether there is an acceptable framework.

In the meantime the Regulator would remind suppliers of the CPS position with regard to the use of such materials.

## Referrals to the Regulator

One aspect of the role of the Regulator is to consider complaints or concerns about the provision of forensic science to the CJS. The response to a complaint can vary depending on the nature of the issue and its potential impact on the CJS. To date the Regulator has dealt with over 60 complaints.

The Regulator is in the process of finalising two reports setting out his consideration of cases where DNA profiles were obtained and employed within the CJS that were later shown to be, for various reasons, unreliable. A previous [report](#) dealt with the case of Mr Scott, where DNA results again proved to be unreliable. The investigation reports will be published in the new year:

The Regulator is writing to forensic science providers to set out the issues highlighted in these cases. He has also initiated discussions with ACPO and the CPS about the way that DNA evidence is being employed and appropriate safeguards.

The Regulator has received a number of complaints in relation to evidence derived from examination of CCTV footage. These have originated from several sources and relate to different aspects of such work. As noted elsewhere in the newsletter standards for image analysis work are being developed and the Regulator has initiated discussions with ACPO and the CPS about a more robust framework for the use of such evidence and the standards to be employed.

## Image analysis

Against a background of countless properly presented cases using image analysis evidence, a small number of cases upon their completion in the CJS have been referred to the Regulator by individual police forces. The concerns could be categorised as relating to the estimation of the height of a suspect, determination of number plates, determination of colour, make or features on a car and the comparison of similarities between images, including facial comparison.

Where evidence requires measurements to be made, good practice, international standards and the Regulator expect sound scientific and robust data to support the operation of the approach and an estimation of the uncertainty of measurement to be made, used and presented in the context of any critical measurement given. This is essentially how close to a true result is the measurement believed to be, i.e. plus or minus how many units of measurement.

The Regulator believes that there is a paucity of scientific underpinning and validation on the analysis of facial characteristics and proportions from photographs using anthropometric landmarks, dimensions and angles. The FBI sponsored Facial Identification Scientific Working Group (FISWG) recommends that photo-anthropometry should NOT be used for facial comparison. Part 33 of the *Criminal Procedure Rules* requires an expert to summarise the range of opinion on the matters dealt with in their report, which the Regulator believes includes commenting on contrary views as to the soundness of the underlying science.

The UK courts have not ruled related disciplines to be inadmissible, saying “*simply leaving the jury to make up its own mind about the similarities and dissimilarities, with no assistance at all about their significance, would be to give the jury raw material with no means of evaluating*” (R v. Atkins & Atkins [2009] EWCA Crim 1876).

All providers need to ensure that they are complying with the Regulator’s *Codes of Practice and Conduct* (which includes a validation as well as an estimation uncertainty of measurement requirement), are working towards accreditation to BS EN ISO/IEC 17025:2005 and are adhering to current good practice guidelines such as contained in the CAST publication *Single Image Photogrammetry*, available [here](#).

The Regulator will be seeking advice from CAST to see if further guidance (or amendments to existing guidance) is needed, or if the examples put before him were isolated examples of a departure from existing good practice and standards.

The Regulator is already about to issue guidance of validation and has commissioned more bespoke guidance on validation in the digital forensic arena.

## Appendices to the Codes of Practice and Conduct

Work continues on the appendices dealing with specific issues to the Regulator's *Codes of Practice and Conduct*.

### New appendices

The Regulator has commissioned two new appendices for guidance on digital validation and understanding cognitive bias effects relevant to forensic science examinations.

A **tender advert** has been published seeking bidders for the development of a medical examination guidance appendix to the Regulator's Codes. Submission of proposals is 24 January 2014.

### Technical reviews

Following the production of a draft appendix to the Codes, each is reviewed by technical specialists, prior to release for public consultation.

The review of the entomology appendix will commence shortly and others will follow in the new year.

The reviews for blood pattern analysis, contamination avoidance (scene of crime) and contamination avoidance (laboratory) are complete or close to completion and will be progressed for public consultation in the new year.

## Consultations

The consultations for the guidance on validation and elimination databases (DNA) are now closed; thank you if you have provided feedback.

The **consultations on fingerprint comparison and the use of photographs for non-CJS purposes** are now available for comment. The Closing dates are 20 January 2014 and 28 February 2014 respectively.

### Statutory powers for the Forensic Science Regulator

The House of Commons Select Committee on Science and Technology, in its **report *Forensic Science*** made recommendations about the role and powers of the Regulator. The HM Government **response** noted the opening of a consultation on statutory provisions in relation to the Regulator. The consultation materials are available **here**.

The consultation exercise closes on 3 January 2014.

It is stressed that this is a consultation being undertaken by the Home Office but the Regulator encourages you to consider the consultation materials and provide your views. He believes that the development of policy is always improved by the participation of those who understand the area and will be affected by the policy.

The recent publications by the Regulator include

## Publications

the following:

- Copies of the presentations given at the 'Quality Managers Conference: Quality standards for fingerprint comparison activities' held on 21 March 2013. **Presentations quality managers conference March-2013**
- The Regulator has agreed and published the protocol for referring Forensic Science Service archive complaints. **Protocol on forensic science service archive complaints**
- Report R626 - **The investigation of a blood pattern analysis case at LGC Forensics.**

### Law Commission Report

In 2011 the Law Commission published a report setting out recommendations on the use of expert evidence in criminal proceedings in England and Wales. The report is available **here**.

HM Government has published its response to the report (available **here**).

## Fingerprint Visualisation Manual, 1st Edition 2014

## Conference

The Regulator has had early sight of the Fingerprint Visualisation Manual developed by the Home Office Centre for Applied Science and Technology (CAST), he is confident that this Manual will support the quality standards for fingerprint recovery and make a valuable contribution to best practice in fingerprint detection

CAST will be publishing the 'Fingerprint Visualisation Manual' in January 2014. This guidance replaces the widely used 'Manual of Fingerprint Development Techniques' 2nd Edition.

The new Manual has been radically revised to include the latest information and reflect current working practices, most notable the advent of the mandatory ISO17025 accreditation for fingerprint laboratories. It provides vastly extended information that will enable practitioners to develop their competence in fingerprint recovery. It achieves this by recognising that the context, knowledge, planning and execution of fingerprint recovery all require careful consideration to ensure the evidential value of any fingerprints visualised can be maximised. This extends to cover limited information on an integrated forensic approach and how to maximise recovery of both fingerprint and other evidence types.

The Manual has been created for use by many practitioners with either practical or managerial responsibility for recovering fingerprint evidence. For some, such as Laboratory Practitioners, the information in the Manual will be used on a 'daily' basis for the practical visualisation of fingerprints, while others will find it more useful for reference when evaluating situations, e.g. when deciding whether scene use of a process is likely to be beneficial or practical.

The Manual will be electronic and supplied as an interactive pdf document. Although it is intended to be of most value if used electronically and interactively, it has been compiled so that it can be read from 'cover to cover' if necessary. It has also been produced in a way that enables those who wish to work from hard copies to print individual pages if this is preferred.

CAST will be implementing the Manual via a series of workshops that will take place from January to March 2014 at various locations around the UK (details have been sent to Scientific Support Managers or equivalent). This will be followed by a series of webinar events.

See the Fingerprint Visualisation Manual [flyer](#) for a breakdown of the various chapters and details of how to get a copy of the Manual.

The Regulator's conference is to be held on Tuesday 4 February 2014 at the Holiday Inn, Smallbrook Queensway, Birmingham, B5 4EW. Attendance is by invite only.

Invitations have been sent out; if you believe that you should have received an invite and haven't received one please contact us at: [FSRConference@homeoffice.gsi.gov.uk](mailto:FSRConference@homeoffice.gsi.gov.uk).

### Staff changes

Josephina Zacaroli-Walker, the support officer to the Regulator and team has transferred to work for the Borders Agency and we wish her well in her new job.

As a consequence for an indeterminate period there will be a reduced staff presence in the office to take phone calls; the number remains the same – 0121 200 3830.

Team members can be contacted directly via their email contact address and general enquiries should be sent to the mailbox, [FSREnquiries@homeoffice.gsi.gov.uk](mailto:FSREnquiries@homeoffice.gsi.gov.uk), which will continue to be monitored.