

THE FORENSIC ANTHROPOLOGY REPORT: A PROPOSED FORMAT BASED ON THE NATIONAL ASSOCIATION OF MEDICAL EXAMINERS PERFORMANCE STANDARDS

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ABSTRACT

Following the release of the 2009 National Academy of Sciences Report, forensic practitioners have been reviewing or developing their best practices, especially concerning methods used in evidence testing. Standardization of reports and terminology, although recommended in the NAS Report, has been less of a focus to date. Subsequently, the National Commission on Forensic Science has posted an initial draft under the heading "Report Content" that summarizes the basic information required in a forensic specialty service provider report (www.justice.gov/ncfs/work-products#report). As indicated, the draft document addresses content, not format. Herein, the authors propose a format for forensic anthropology reports submitted to medical examiners/coroners that are based on the performance standards established by the National Association of Medical Examiners (NAME) in 2006. Adopting such a format would provide greater uniformity and clarity across the many forensic disciplines involved in medicolegal death investigation.

1. Background

The National Academy of Sciences 2009 Report entitled "Strengthening Forensic Science in the United States: A Path forward" (2009) recommended standardization of terminology and reporting. With respect to terms, the first author recently addressed the term *peri mortem* and its vagaries in forensic anthropological use (Bunch 2014). Regarding reporting, the NAS report authors recommend that the "[NIFS] should establish model laboratory reports for different forensic science disciplines and

specify minimum information that should be included" (2009: 22). Suggested content areas were "methods and materials, procedures, results and conclusions, and...as appropriate, the sources of uncertainty in the procedure and conclusions along with estimates of their scale (to indicate the level of confidence in the results)" (2009: 186). The authors go on to urge that use of such model reports should be required of forensic scientists for certification purposes and forensic laboratories for accreditation purposes. Following this recommendation, the National Commission on Forensic

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Science (NCFS) drafted a document regarding Report Content (www.justice.gov/ncfs/work-products#report) that addresses the required elements that should be included in a forensic specialty service provider report.

Prior to the NAS Report, the National Association of Medical Examiners (NAME) presciently developed Forensic Autopsy Performance Standards (2006). These standards include a section on Documentation and Reports that provides standards for report format and content (p.18). The report should include:

"two separate parts...(1) the objective forensic autopsy with its findings including toxicological tests, special tests, microscopic examination, etc., and (2) the interpretations of the forensic pathologist including cause and manner of death" (2006: 18).

The contents include case background and identifiers first (H31.1- H31.4), followed by observations and descriptions (H31.5-H31.8 –Part 1), and finally diagnoses and interpretations (H31.9-H31.11 – Part 2).

The NAME approached report standardization among its practitioners in a pro-active manner, and its Documentation and Reports standards can serve as a model for any consultant working with a medical examiner's/coroner's office. We propose that forensic anthropologists utilize the NAME reporting format for consultation reports provided to medical examiner/coroner offices

2. Current Status of Forensic Anthropology Reporting

The state of affairs at the time of this writing is that practitioners typically agree on what to include in a forensic anthropology report concerning its basic content; however, there is no consensus on how this information should be presented. This is illustrated in the board certification assessment of applicant reports (submitted for consideration for acceptance to sit for the certification examination). This process is extremely challenging given the plethora of reporting formats and styles. While content may vary somewhat from one report to another it is far more consistent than format and organization. Descriptive and interpretive terms often appear in the same section, paragraphs, and even sentences. For example,

"The right femur demonstrated a probable perimortem delta fracture (see photograph 3)."

"Three circular defects were observed in the left parietal (2) and frontal (1) bones. The internal beveling of each defect indicates that these are gunshot entrance wounds (see photographs 2-4)."

The hesitation to standardize report format may, in this particular case, be based on the academic rooting of anthropology as a discipline. Academic freedom is highly valued and along with that comes great creativity, multiple forms of expression, and independent thought.

Nevertheless, forensic anthropologists themselves have published basic guidance under the heading "Documentation and Reporting" in various texts (Christensen, Passalacqua, and Bartelink 2014; Byers 2005; Burns 1999) and through the Special Working Group for Anthropology (SWGANTH) standards

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(www.swganth.org). Guidance for forensic anthropology reports is general and refers more often to content and clarity. For example, Christensen, Passalacqua, and Bartelink recommend that reports should be organized and clear, evidence-based, without speculation (2014: 55). According to Byers (2005), the final report "should be accurate and complete...[and] should give the impression that the forensic anthropologist is both competent and conscientious" (p. 447). Concerning actual organization, Byers states that the report "can have two main parts...a one-page summary that briefly describes the results of the skeletal analysis" (p. 448) and a second part that "should provide a description of the methods used and a detailed discussion of the results obtained from the analysis" (p.448). Burns (1999) provides suggested sections that should comprise the report, i.e., case background, general condition of evidence, inventory, anthropological description, other observations, conclusions, and recommendations. Within the section of anthropological description, the headings of sex, "race"(now typically defined as "ancestry" or "bio-affinity"), age at death, and stature are included. Trauma would be presented under "other observations" (Burns 1999: 199-201).

SWGANTH in its published (online at www.swganth.org) best practice recommendations addressed "Report Organization" (Section 4.1.2) thus:

"As appropriate, reports should contain results organized according to the type(s) of test(s) performed, such as:

- ❖ Biological profile
- ❖ Minimum number of individuals
- ❖ Traits relevant to identification
- ❖ Identification comparison

- ❖ Skeletal alterations (antemortem trauma or pathological conditions, perimortem trauma, postmortem damage)" (2012: 7).

Under Section 4.1.4, "Additional Report Content", SWGANTH recommended that reports should include "opinions and interpretations" along with other information contextualizing the specific tests and methods used (p.8). There is no statement made regarding where this information should be situated itself. Thus, actual best practice for organization or format of reports is not specifically addressed in any clear way by the SWGANTH.

As of 2014, Special Working Groups were subsumed by Organization Special Area Committees (OSACs), with the Subcommittee on Anthropology falling under the Crime Scene/Death Investigation OSAC. To date, the Anthropology Subcommittee of the Crime Scene/Death Investigation OSAC has not published guidelines for Documentation and Reporting.

3. The rationale for a standardized reporting format.

The consultation report submitted by a forensic anthropologist is de facto a part of a forensic autopsy or examination. Human remains that come to the attention of a medical examiner's office and receive a case number, whether they are recent, historic, or prehistoric, are processed, analyzed and reported on accordingly. Lawyers, judges, family members, tribal leaders and members, jurors, other experts, detectives, investigators, and journalists frequently use these reports. It makes sense to have a set of

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similarly formatted reports from different experts who have contributed their expertise to the same case.

Perhaps more importantly, if a second opinion is obtained (for defense purposes, for example) the reservation of interpretive/subjective information for the latter portion of a consultant report allows the second expert to form his or her own independent interpretation by seeing the descriptive, objective information first. Bias from the original consultant can be lessened by withholding the subjective information for a later section. It would be easier to consider a standardized format if practitioners keep in mind that other scientists do so for health and safety purposes – peoples' lives depend on standard practices being applied.

Forensic practitioners submitting reports to a medical examiner's office must consider that a person's (or persons') life (or lives) may depend on his or her report content and interpretation. Furthermore, when a forensic anthropologist serves as an expert in court, it is typically the case that a person has already lost his or her life. In that context, it may make logical and ethical sense to see standardization as a preferred approach.

4. The Forensic Anthropology Report adapted to NAME specifications:

NAME recommends that typically background and descriptive (objective) information is provided first in a report. For a pathologist this involves a detailed description of the gross autopsy findings and microscopic findings where appropriate. Specifically, these sections would not

include interpretation or opinion of a certain finding. As an example, this section might describe a 2.3 cm area of grey-white fibrosis in the muscle of the left ventricle of the heart, but not describe it in this section as a myocardial infarct (heart attack). An anthropologist would in turn provide Burns' (1999) first three sections: (1) case background information [if any is known to him/her], (2) a description of remains/general condition and (3) inventory -- skeletal elements present for analysis. Photographs of the skeletal elements arranged in anatomical position if possible/appropriate, should appear here. An accompanying skeletal diagram with inventoried skeletal elements highlighted may also be provided here. When it comes to skeletal anomalies and/or alterations such as disease markers, fractures, etc., these should only be described in detail in this section. Interpretive terms implying causation or timing should not appear here.

In a following section, according to NAME standards, there are the diagnoses and/or interpretations. The medical examiner/coroner provides a list of final diagnoses which, in the above example, would include a myocardial infarct. It would also include the cause and manner of death and might include an opinion regarding the age of this infarct. Since anthropologists do not diagnose, they would place this information in a "Results" or "Interpretation" section. Here, the Burns' sections of anthropological description, other observations, conclusions and recommendations should be presented. SWGANTh proposed content of MNI, biological profile information and description of any traits related to individual identification would be entailed here (as it represents anthropological description and

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other observations) Here, the anthropologist also may be able to interpret fracture patterns for example, as to whether or not these were related to blunt force trauma, gunshot wound(s), etc. As the SWGANTH Sections 4.1.2 and 4.1.4 imply, this type of subjective information (e.g., identification comparison, trauma, pathological conditions, interpretations) should appear after that basic, descriptive data.

As aforementioned, ideally, the report should allow another expert to read through the objective information that was presented initially, and, based on that information, come to same conclusions that the author of said report has reached. This should be the case now, six months from now, or six years from now. If a second expert has a differing interpretation, that will be presented in his or her own report and ultimately, in court.

There may or may not be an opinion section in the pathology report, depending on the particular office. Expert "opinions" in a medicolegal sense are different from the objective and interpretative information contained in a pathology or consultant report. Unlike the objective information presented in section 1 of the report, opinions may change in light of new or different investigative evidence. Opinion evidence is a "witness's belief, inference, or conclusion regarding the fact(s) formed from phenomena and mental impressions" (U.S. Legal's terms, U.S. legal.com 2010). Often opinions are not presented in such a report,

but rather stem from the subjective part of a report and are provided during courtroom testimony. An opinion can be contained in the notes of the practitioner or reserved for oral presentation only in court. If asked for an opinion, the medical examiner or consulting expert will provide it.

5. Summary

In response to the recommendation from the 2009 NAS Report and the growing need among practitioners, the authors offer a suggested standardized approach to forensic anthropology consultant reports provided to medical examiner's/coroner's offices. This approach follows the NAME Forensic Autopsy Performance Standards (2006). Since forensic anthropologists are involved in death investigations work in concert with medical examiner's offices, it seems to be a practical and reasonable solution to the current lack of standardization, to utilize the accepted best practices of reporting recommended by NAME.

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