



# NATIONAL COMMISSION ON FORENSIC SCIENCE



## Evidence Retention and Preservation

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### **Type of Work Product**

Abstract developed by the Reporting and Testimony Subcommittee

### **Statement of the Issue**

The Evidence Retention and Preservation Working Group of the Reporting and Testimony Subcommittee of the National Commission on Forensic Science will develop a Views Document summarizing the status of scientific and legal issues surrounding the retention and preservation of biological (e.g., for DNA testing) and non-biological evidence. Some of the topics that will be presented include evidence management from collection and analysis through its pathway within the judicial system; short and long term storage issues; the requirements and statutes controlling evidence preservation and retention by laboratories and other entities such as law enforcement and the courts; and the importance of re-testing and the consequences of failing to preserve the ability to re-test evidence. The Working Group will subsequently develop broad policy recommendations for evidence retention and preservation, including issues related to consumption. Separate abstracts will be developed for each additional work product related to evidence retention and preservation.

### **Background**

Justice for victims, victim's families, suspects, defendants and the public depends on the ability to seek truth through the presentation of accurately generated and reported evidence. One way to ensure this is to preserve the ability for independent re-analysis, re-examination and review of the evidence to demonstrate the reproducibility and reliability of the data obtained and that the data are free of errors. The use of well devised evidence retention and preservation policies and procedures would guarantee that sufficient evidence is preserved in such a manner as to avoid contamination and other deleterious effects, thus permitting the confirmation and authentication of the scientific testing performed, data and observations amassed, and the conclusions obtained and reported at any time after the generation of the original data and conclusions. Furthermore, appropriately preserved evidence may be used to generate additional data when new testing procedures become available. The essential need for and benefit of robust evidence retention and preservation policies is most clearly demonstrated through the postconviction exoneration after many years of imprisonment of over 325 individuals through the use of DNA testing that was not available at the time of conviction.

The ability to re-test or re-examine evidence associated with a legal matter provides essential safeguards and ensures the integrity of the system. This can only be achieved through the appropriate retention of evidence and preservation of the retained evidence under suitable conditions for re-testing and analysis.