



NATIONAL COMMISSION ON FORENSIC SCIENCE



Recommendation to the Attorney General Universal Accreditation

Subcommittee
Accreditation and Proficiency Testing

Date of Current Version	04/30/2015
Approved by Commission	04/30/2015
Action by Attorney General	12/07/2015

Attorney General Action

The Department of Justice (DOJ) responded on December 7, 2015, by announcing that the Department will, within the next five years, require department-run forensic labs to obtain and maintain accreditation and require all department prosecutors to use accredited labs to process forensic evidence when practicable. The new policy does not apply to digital forensic labs, and the Department asked the NCFS to develop separate recommendations on accrediting labs that conduct digital forensic work. The Department will use its grant funding mechanisms to encourage other labs around the country to pursue accreditation. For more information, please see the Attorney General’s Memorandum at: <https://www.justice.gov/opa/file/797541/download>.

Commission Action

The Commission voted to adopt this Recommendation on April 30, 2015 by more than a two-thirds majority vote (96% yes, 4% no, 0% abstain). On March 22, 2016, this Recommendation was reconciled to reflect the definition of forensic science service providers (FSSP) adopted by the Commission in the *Defining Forensic Science and Related Terms Views* document.

Note: This document includes recommendations developed and adopted by the National Commission on Forensic Science and proposes specific acts that the Attorney General could take to further the goals of the Commission. The portion of the document directly labeled “Recommendations” represents the formal recommendations of the Commission. Information beyond that section is provided for context. This document does not necessarily represent the views of the Department of Justice or the National Institute of Standards and Technology. The National Commission on Forensic Science is a Federal Advisory Committee established by the Department of Justice. For more information, please visit: <https://www.justice.gov/ncfs>.

Type of Work Product

Policy Recommendation.

Recommendation

It is recommended that all forensic science service providers (FSSPs)¹ become accredited.

Statement of the Issue

The 2009 National Research Council (NRC) report on forensic science set forth 13 recommendations for FSSPs.² Relevant among these were best practices, standardization, and improving the quality of services, including universal accreditation of FSSPs. Many FSSPs currently providing services in furtherance of criminal, civil, regulatory, or administrative proceedings in the United States are not accredited to any national or international standard. To achieve universal accreditation, the Commission recommends that the Attorney General take several actions to promote and enforce universal accreditation.

Background

Accreditation programs specifically for FSSPs have been available in the United States since approximately 1982. Accreditation has been voluntary in many jurisdictions, and universal accreditation has not been required or achieved. Several states³ have passed legislation mandating accreditation and other forms of oversight of FSSPs. The legislation and oversight requirements vary greatly from state to state.

Benefits of Accreditation

Accreditation helps to ensure both ongoing compliance to industry standards and continual improvement of a FSSP's operations. Accreditation assesses a FSSP's capacity to generate and interpret results. Accreditation criteria are based on accepted industry standards and applicable international standards. Accreditation uses these criteria to assess the quality of the FSSP's management system by examining, among other things, staff competence, training, and continuing education; method validation; appropriateness of test methods; traceability of measurements and calibrations to national standards; suitability, calibration, and maintenance of test equipment; testing environment; documentation, sampling, and handling of test items; and quality assurance of data, including reporting results and proficiency tests. The accrediting body prepares the assessment report and monitors any remediation to ensure the appropriate corrective action(s) have been implemented before accreditation is granted. Accreditation also includes periodic surveillance by the accrediting body to ensure continued compliance with requirements. Failure to maintain these standards can result in the accrediting body suspending or revoking the accreditation of the FSSP.⁴

Universal accreditation will improve FSSP ongoing compliance with industry best practices, promote standardization, and improve the quality of services provided by FSSPs nationally.⁵

¹ Providers who render opinions based only on the review of data from examinations conducted by other entities, or on an evaluation of procedures, tests, or methods used by other entities are not included in this definition. Examples of persons or entities that would be included or excluded from this definition can be found in Appendix A. This document does not address forensic medicine service providers as defined in the views document on certain definitions adopted by the Commission on May 1, 2015.

² National Research Council of the National Academies. *Strengthening Forensic Science in the United States: A Path Forward*, Washington, DC, 2009.

³ As of January 7, 2015, 10 states have passed legislation. Information found on <http://www.ncsl.org/research/civil-and-criminal-justice/dna-database-search-by-policy.aspx>.

⁴ For additional information, see *The Advantages of Being an Accredited Laboratory*, ILAC Publications, 2010.

⁵ The recommendation that FSSPs be accredited is a policy one, meant to ensure an increase in overall quality and quality assurance. It is not meant to be used as a criterion for a threshold admissibility determination for a particular expert or conclusion. Those types of decisions are made pursuant to judicial standards applying the criteria enunciated in *Daubert*,

Challenges to Achieving Accreditation

A major challenge facing the forensic community is identifying the FSSPs. The NRC report noted that insufficient data exists on the number and expertise of forensic practitioners who are not employed in publically funded laboratories.⁶ There are potentially thousands of FSSPs, predominately in law enforcement agencies, providing limited forensic science services. The majority of these providers are not accredited.

Although significant progress has been made in the accreditation of public and private FSSPs to ISO/IEC 17025, ISO/IEC 17020, and, ISO 15189 and supplemental forensic science standards by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), this voluntary accreditation has not resulted in universal accreditation. To improve the overall quality of forensic science, all entities performing forensic science testing, even on a part-time basis, must be included in universal accreditation.

This document acknowledges there are challenges to achieving universal accreditation including, but not limited to:

- There are specialty examinations that are valuable; however, they may be outside the scope of existing forensic science accreditation programs.
- There are research laboratories with equipment and expertise that may allow them to provide valuable services to the criminal justice system, but because the provision of such services is only a rare occurrence, they will have no incentive to secure accreditation for forensic testing.
- There are existing accrediting bodies that do not use ISO/IEC standards at this time, although they have been accepted within the community, and standards have been generated by professional organizations.
- There are existing accrediting bodies not recognized by ILAC, and this recognition will take time to achieve.
- Factors outside the control of the FSSP, such as the availability of assessors, subject matter experts, and parent agency resources/funding, may affect the ability of the FSSP to achieve or maintain accreditation within recommended timeframes.
- Compliance with government policies and regulations (e.g., purchasing, contracting, hiring, budget cycles) may also affect a FSSP's ability to meet a mandated timeline. In some enacted state statutes, certain FSSPs are not required to meet accreditation standards and may be excluded from oversight regulations.
- The establishment of the necessary quality management systems may require significant resources and may impact timeliness of services provided during implementation.
- FSSPs or their parent agencies may eliminate some or all services rather than seek accreditation, thus shifting additional caseload, testimony and travel to other FSSPs. This could impact backlogs, turnaround times, and operating costs, thereby adding to existing delays in the justice system.

Frye, FRE 702, and/or various state laws.

⁶ National Research Council of the National Academies. *Strengthening Forensic Science in the United States: A Path Forward*, Washington, DC, 2009, 64.

- Forensic units, small municipalities, law enforcement agencies, entities with part-time practitioners, and private entities that provide forensic science services may misunderstand or misinterpret the applicability of universal accreditation to their organization. It may be necessary to conduct directed outreach through nongovernment organizations that support these entities to assist with educating the affected FSSPs, judicial system, and enforcement bodies.

Proposed Implementation Strategy

- The Attorney General shall direct all Department of Justice (DOJ) FSSPs to maintain their accreditation, and those FSSPs who are not yet accredited shall prepare and apply for accreditation within 5 years.
- The Attorney General shall direct DOJ FSSPs to use accrediting bodies that submit to and are in compliance with ISO/IEC 17011 and are a signatory to the ILAC MRA. Accreditation shall be to internationally recognized standards (at a minimum ISO/IEC 17025, General Requirements for the Competence of Testing and Calibration Laboratories; ISO/IEC 17020, General Criteria for the Operation of Various Types of Bodies Performing Inspection; and ISO 15189, Medical laboratories—Particular Requirements for Quality and Competence), including all appropriate supplemental standards.
- The Attorney General shall require that DOJ grant funding provided to non-DOJ FSSPs shall be granted only to those FSSPs who are accredited or are in the process of becoming accredited. In the future, any DOJ funding award shall include a special condition requiring that the agency's FSSPs be accredited.
- The Attorney General shall require that federal prosecutors, in cases in which they are in a position to request forensic testing, contract with accredited FSSPs. This provision does not apply to analyses conducted prior to the involvement of a federal prosecutor.
- The Attorney General should encourage, by all means possible, the universal accreditation of all non-DOJ FSSPs with any available enforcement mechanisms.

Appendix A

Examples of Forensic Science Service Providers

For the purposes of this document, a forensic science service provider is “a person or entity that 1) recognizes, collects, analyzes, or interprets physical or digital evidence, and (2) issues test or examination results, provides laboratory reports, or offers interpretations, conclusions, or opinions through testimony with respect to the analysis of such evidence.” Providers who render opinions based only on the review of data from examinations conducted by other entities or on the review of procedures, tests, or methods used by other entities should not meet this definition. This document does not address forensic medicine service providers.

Examples of functions that would be included are below, whether in public or private practice. The list is not inclusive of all FSSPs.

1. Crime scene (e.g., blood pattern analysis, fire investigation, crime scene reconstruction)
2. Identification examinations (e.g., latent prints, ten prints, tire impressions)
3. Document examinations
4. Firearms/ballistics examinations
5. Toolmark examinations
6. Digital and multimedia examinations
7. Drug or chemical identifications
8. Biological examinations
9. Trace evidence examinations

Examples of functions that would be excluded are below, whether in public or private practice. The list is not inclusive of all functions that would be excluded.

1. Opinions/evaluations of the appropriateness or use of a particular statistical, probabilistic, or mathematical statement or error rate calculations.
2. Opinions/evaluations of the validity or reliability of a forensic science discipline, method, or technique.
3. Opinions/evaluations of the validity or reliability of research supporting a forensic science discipline, method, or technique.
4. Opinions/evaluations of results, methods, or techniques used in a forensic examination.
5. Examinations for which there is no forensic science accreditation program.

Appendix B Certification vs. Accreditation

Accreditation is an independent third-party assessment of a FSSP's (which can consist of one or many practitioners) quality, administrative, and technical systems. Accreditation uses specific criteria and procedures based upon accepted standards to ensure the quality of the FSSP's management system by examining staff competence, training, and continuing education; method validation; appropriateness of test methods; traceability of measurements and calibrations to national standards; suitability, calibration, and maintenance of test equipment; testing environment; documentation, sampling, and handling of test items; and quality assurance of data, including reporting results and proficiency tests.

Professional certification,⁷ which is not addressed in this document, is the recognition by an independent body that an **individual** has acquired and demonstrated specialized knowledge, skills, and abilities in the standard practices necessary to execute the duties of his or her profession. Certification programs can include: written and/or practical testing; an evaluation of education, training, and practical experience; requirements for continuing education; and adherence to a code of ethics. Certification does **not** assess the quality, administrative, and technical systems used by the individual in his or her work. It also does **not** assess methods, procedures, testimony, reports, documentation, equipment, validation, measurement uncertainty, facilities, evidence handling, security, or safety procedures used by the individual.

Accreditation and certification are very different programs that assess and evaluate different aspects of forensic practitioners and FSSPs. They are not interchangeable, but both are necessary to strengthen forensic science.

⁷ Certification, for purposes of this document, does not include certification of an instrument, equipment, or the company manufacturing the equipment.