



# NATIONAL COMMISSION ON FORENSIC SCIENCE

**NIST**  
National Institute of  
Standards and Technology  
U.S. Department of Commerce

## Recommendation to the Attorney General on Accreditation of Digital and Multimedia FSSPs

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### Type of Work Product: Adjudication of Public Comments on Draft Document

#### Public Comment Summary:

The document was posted in March 2016 as proscribed by Commission by-laws. The subcommittee received significant input from the digital and multimedia forensics stakeholder community during the public comment period, including 77 comments submitted. Comments included several general themes, including:

- Some commenters agreed with the recommendation for accreditation and that best practices and standardization will improve the quality of services provided by digital forensics service providers.
- Several commenters expressed that quality assurance is important to the stakeholder community and believe that quality work is currently conducted in digital forensics units based on examiner training, certifications, experience, and using procedures that are generally accepted by the digital forensics community and are accepted by the courts, albeit without accreditation. Several commenters expressed that accreditation, and particularly accreditation using ISO standards for physical science laboratories, is not viewed as the ideal solution to increase quality and that accrediting bodies are not experienced in digital forensics.
- Implementing accreditation will require significant resources (dedicated personnel, funding, costs for accreditation and access to standards) that are not currently available or accessible to digital forensics units. Implementation of accreditation now is viewed as premature and burdensome without demonstrating value vs. costs. Concern was also expressed that mandated accreditation will be difficult and challenging for small/medium law enforcement agencies and digital units.
- Shifting resources towards accreditation will reduce or remove resources for casework, resulting in backlogs and delayed justice and hinder development of investigative leads (including protection/rescue of victims under duress)
- Current procedures employed for digital forensics are acceptable, since judges/courts allow admissibility and do not require accreditation
- Concern that accreditation will hinder use of new examination tools/processes, as digital evidence and tools change continuously
- Consideration of additional ISO/IEC 27XXX series standards, such as 27037, 27041, 27042, 27043, 27050

#### Adjudication Process Used by Subcommittee:

The subcommittee met via teleconference on August 8, 2016. The Subcommittee considered all comments and input that was provided by a group of digital forensics subject matter experts and developed a follow-up draft work product. All comments were summarized by theme. In addition to comments, information presented and discussed during the digital evidence panel at the NCFS

Meeting #10 was considered. The subcommittee was appreciative of the extensive comments and feedback received. The revised document was submitted to the subcommittee for a vote on August 12, 2016.

### **Adjudication Summary:**

While many of these concerns are the same challenges that other forensic disciplines faced when pursuing accreditation over the past 30 years; they are new to the digital evidence community especially those entities not associated with or part of a larger FSSP. Although the subcommittee agrees that many benefits can be gained with a robust quality system and external accreditation to international standards, it was clear from the comments that the digital evidence community was unfamiliar with and required additional information to remove misperceptions about accreditation; making implementation of universal accreditation under the original timelines impractical.. It was also clear that additional study on appropriate international standards and additional requirements was necessary.

From these comments, the Subcommittee recognized that the digital evidence community stands to gain a greater understanding and awareness of the accreditation processes and associated international standards (e.g. ISO 17020, ISO 17025, accrediting body requirements that are forensic specific) and their potential benefits. International accreditation standards have been used for the accreditation of digital forensics service providers of varying sizes and allow flexibility for novel examination tools and processes. The digital community may be receiving mixed messages on the purpose, implementation processes, costs, and value of accreditation for the continuous quality improvement of standard operating procedures and work flow processes. The Subcommittee also recognizes the varied mission needs of the digital evidence community, including the significant investigative functions. Education of the community and support from existing accredited FSSPs is an important part of the future of universal accreditation in digital evidence.

Therefore, the recommendations were revised to:

- The Attorney General should direct the DOJ DME FSSPs to maintain accreditation or if not accredited, to prepare for accreditation using accrediting bodies that submit to and are in compliance with ISO/IEC 17011 and are a signatory to the ILAC MRA. Ideally accreditation shall be to internationally recognized standards (i.e., ISO/IEC 17025 *General Requirements for the Competence of Testing and Calibration Laboratories* or ISO/IEC 17020 *General Criteria for the Operation of Various Types of Bodies Performing Inspection*).
- The Attorney General should direct the DOJ DME FSSPs to implement the Critical Steps to Accreditation<sup>1</sup> as best practices until accreditation can be achieved.
- The Attorney General should require that federal prosecutors, where practicable and in cases in which they are in a position to request forensic testing, contract with accredited

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<sup>1</sup> *Views of the Commission Regarding Critical Steps to Accreditation* - Approved by the Commission on March 22, 2016 and accessible at <https://www.justice.gov/ncfs/file/839701/download>

DME FSSPs. This provision does not apply to analyses conducted prior to the involvement of a federal prosecutor.

- The Attorney General should appoint a group to determine best standards and supplemental requirements for accreditation of DME service providers, especially if they are not affiliated with an FSSP with existing accredited services.
- The Attorney General should provide education to DME community on accreditation, applicability, requirements and benefits for the digital evidence discipline.
- The Attorney General should encourage, by all means possible, the path to accreditation for all DME FSSPs utilizing any available mechanisms.

The Recommendation document that was the subject of the public comments was reviewed globally with the comments in mind. Overall, it was clear from the majority of the comments and the speakers at the panel on Digital and Multimedia Evidence held at the NCFS Meeting #10 that significant changes were required to the initial document. This new draft will be provided for discussion and a second public comment period coinciding with the September 2016 NCFS meeting.