



NATIONAL COMMISSION ON FORENSIC SCIENCE

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

Directive Recommendation: **Transparency of Quality Management System Documents** **DRAFT**

Subcommittee
Interim Solutions

Type of Work Product
Directive Recommendation

Recommendations

The US Attorney General should direct all Department of Justice (DOJ) Forensic Science Service Providers (FSSPs) to make quality management system documents (as described below) readily accessible to the public in an electronic format upon request.

The US Attorney General should direct all DOJ FSSPs to make quality management system documents (as described below) available on the department's website within one year of the passage of this directive.

The US Attorney General should require, starting January 1, 2017, that federal prosecutions, in cases in which federal prosecutors request forensic testing, shall only use Forensic Science Service Providers (FSSPs) and Forensic Medicine Service Providers (FMSPs) that make quality management system documents (as described below) available in an electronic format upon request by either the defense or the prosecution.

Statement of the Issue

Publication of quality management system documents by FSSPs and FMSPs will promote accountability and help foster a culture within the community of FSSPs and FMSPs of adopting and complying with quality management systems.

Quality management system documents that should be public or readily available are those which are generally applicable to the FMSP or the FSSP and the forensic work it performs and not items that are case specific. Such items include:

Policies and procedures for forensic testing, examination, and analysis, including:

- Maintenance and calibration of all equipment and materials
- Estimations of uncertainty
- Monitoring the quality of forensic analysis
- Minimizing bias
- Internal and external audits

- Proficiency testing
- Evidence handling
- Issuing written reports and courtroom testimony
- Nonconformities and root cause analysis

Internal validation summaries

Classification standards (e.g., position requirements, minimum qualification requirements) for analyst positions within the service provider

Recommendations from RCAs undertaken, excluding (a) information regarding the specifics of the underlying case investigated or the investigation itself, and (b) confidential, privileged or attorney work product information regarding specific individuals. See National Commission on Forensic Science August 11, 2015 Directive Recommendation: Root Cause Analysis in Forensic Science.

While sometimes necessary, redactions of personnel information, protected intellectual property, or sensitive law enforcement procedures should be limited.

Many FSSPs and FMSPs, including most federal providers have written policies and procedures. A few state and local providers are leading the way in making these documents available to the public on the internet¹ and others are leveraging technology to make these documents electronically available to the parties and the court through secure websites.² These actions are consistent with the trend in forensic science for accountability and transparency.

Implementation

The US Attorney General should direct that the FSSPs and FMSPs shall produce the documents in their entirety. Any redactions to protect personnel information, intellectual property or sensitive law enforcement procedures shall be limited. Technical information that is otherwise in the public realm and/or known by the larger science community shall not be redacted.

Additionally, the US Attorney General should encourage the universal publication of quality management system documents described below from all non-DOJ FSSPs and FMSPs through

¹ See for example <http://www.dfs.virginia.gov/documentation-publications/manuals/>, <http://dfs.dc.gov/page/open-government-and-foia-dfs>; <http://www.isp.idaho.gov/forensics/>; and <http://dfs.dc.gov/page/open-government-and-foia-dfs>; <http://www.ncdoj.gov/About-DOJ/Crime-Lab/ISO-Procedures.aspx>; <http://www.nyc.gov/html/ocme/html/ftox/SOP.shtml>; <https://www.austintexas.gov/page/forensics-policy-manuals>; <http://www.scottsdaleaz.gov/Assets/Public+Website/departments/City+Attorney/Prosecution/Lab+Documents/Blood+Alcohol+Analysis+Procedures+Manual+effective+7-11-12.PDF>.

² For example, the Michigan State Police Forensic Science Division makes available to the prosecutors, the courts and the defense bar the following through a secure website: FSD Accreditation; FSD Laboratory Operations Manual; FSD Quality Manual; Procedures/Training Manuals - Biology; Procedures/Training Manuals - Controlled Substances; Procedures/Training Manuals - Crime Scenes; Procedures/Training Manuals - Firearms/Toolmarks; Procedures/Training Manuals - Latent Prints; Procedures/Training Manuals - Questioned Documents; Procedures/Training Manuals - Toxicology; and Procedures/Training Manuals - Trace Evidence.

For each employee of the laboratory the website contains the following information: Employment History and Development; Position Description; Proficiency Tests; Expert Witness Evaluations; Statement of Qualifications; Trained To Competency; and Casework Authorization.

any means available including providing information technology support and infrastructure where possible to state and local FSSPs and FMSPs.