



NATIONAL COMMISSION ON FORENSIC SCIENCE

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

Recommendation to the Attorney General Accreditation of Digital and Multimedia Evidence Forensic Science Service Providers

Type of Work Product:

Adjudication of Public Comments on Second Draft Recommendation to the Attorney General Accreditation of Digital and Multimedia Evidence Forensic Science Service Providers

Public Comment Summary:

The document was posted as proscribed by Commission by-laws. Twenty individuals or groups submitted comments. The majority were supportive of the concept of accreditation stating they are “in favor of maintaining the highest level of quality and consistency” and that accreditation “would certainly achieve greater uniformity”. However, there were also a significant number of respondents expressing concerns regarding the lack of a robust strategic implementation plan to include financial, personnel and timing issues, the need to clarify which accreditation standards are recommended, defining a DME Forensic Science Service Provider and having a punitive measure instead of an encouraging one to become accredited forensic DME provider.

Adjudication Process Used by Subcommittee:

The subcommittee met via teleconference on October 27, 2016. All comments, responses and proposed changes to the views document were discussed in detail. The subcommittee was appreciative of the thoughtful comments received. The revised document was submitted to the subcommittee for a vote on December 7, 2016.

Itemized Issues and Adjudication Summary:

For response the subcommittee organized public comments by theme. Some of these directly correlated to a specific recommendation in the draft document and some were general.

- 1) The accreditation standards recommended by the document (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) are unsuitable for digital evidence field.**

These are internationally recognized accreditation standards and currently, 72 U.S. federal, state, local, and private digital evidence laboratories have achieved accreditation under these standards as well as labs in Europe, the Middle East, and Asia. There is also a misunderstanding of the differences between 17020 and 17025 standards for quality systems and testing and the 27000 series which are technical standards for specific tasks. These are meant to be complementary with the 27000 series supporting the 17000. Language in the document was re-worded to make a distinction between these types of standards.

2) Implementation of the Recommended Critical Steps to Accreditation as in interim step prior to accreditation is not appropriate.

The National Commission has acknowledged the steps identified in Critical Steps to Accreditation Views document as good quality management system practices. The implementation of any of the steps will only benefit forensic science service providers (FSSPs) and move them further along in the accreditation process. There was also some confusion expressed over the interrelationship of Commission Views and Recommendation documents. The natural evolution of Commission products has resulted in several cross referencing and relying on materials and issues discussed in earlier documents.

3) Recommendation that Federal prosecutors, where practicable, only use accredited forensic science service providers does not take into account impact on prosecutions and will slow investigations and work will not be completed.

The language “where practicable” was taken directly from previous Department of Justice language on a similar recommendation. It is designed to give federal prosecutors the necessary tools to conduct quality forensic examinations while balancing the needs of the prosecution.

4) Recommendation that the Attorney General appoint a group of subject matter experts to determine the best standards and supplemental requirements for accreditation of DME FSSPs is not inclusive of the existing expertise such as OSAC and SGWDE.

The subcommittee agrees the existing subject matter experts should be a part of this critical process and group and has re-worded the recommendation bullet to reflect this change. It is important to note that the subcommittee also believes that the inclusion of experts from other forensic disciplines that have already tackled similar accreditation challenges would benefit the DME community.

5) The recommendation document is punitive instead of encouraging.

While the recommendation is not meant to be punitive the subcommittee could understand how some individuals may read it as such. The subcommittee re-worded the document language (specifically the last recommendation bullet) to address this concern but stress the important of moving forward with universal accreditation for DME FSSPs.

6) The recommendation is premature if the breadth and size of the DME community is 1) unknown 2) impact on first responders and other personnel using tools in the field for limited tasks is not clearly defined and 3) accreditation is too burdensome /unattainable for small labs and sole practitioners.

The subcommittee agrees that the continued development of standards, determination of applicability and education of the DME field on accreditation is critical to future success and implementation. The Commission has requested an update on the Bureau of Justice Statistics survey of FSSPs to address all these questions not only for DME but latent prints and other impacted forensic disciplines. Sole practitioners meeting the definition of an FSSP and performing the same examination and testing as a larger FSSP should follow the recommended quality processes, practices and procedures. Sole practitioner labs will benefit from joining together to share resources and knowledge. The goal is to move the entire community/field forward and larger existing accredited FSSPS should assist others

on the path to accreditation.

7) The recommendation lacks a robust strategic implementation plan to include financial, personnel and timing issues.

The recommendations were not intended to provide details to this level of specificity as it was determined that there was still much to learn about the DME field. Instead the goal is to acknowledge the benefits of accreditation and move all forensic science forward.

8) Accreditation is not necessary; certification of practitioners is all that is needed.

Certification and accreditation are different and not interchangeable. The subcommittee addressed this distinction in Appendix B. The credentials of the examiners are left to the individual FSSP's and certification of examiners is addressed in the Certification Views document.

9) Subcommittee members benefit financially from accreditation.

The subcommittee is comprised members from FSSPs of varies sizes and backgrounds as well as representative from accreditation bodies. The goal was to bring together individuals with diverse knowledge to inform all participants during the process. The Commission and subcommittee process has been open and transparent and the records are available to the public. The documents have been posted for multiple periods of public comment and have allowed interested parties to express, concerns support and suggest changes. Members have abstained from voting on documents specifically to avoid any conflict of interest.