DEPARTMENT OF JUSTICE
TESTIMONY MONITORING FRAMEWORK

Purpose and Scope

Testimony monitoring is a quality assurance measure by which Department of Justice forensic laboratories and digital analysis entities can ensure that results of forensic analyses are properly qualified and appropriately communicated in testimony. Its purpose is to provide examiners with ongoing assessments of their testimonial presentations and to highlight opportunities for continual improvement.

This document establishes a framework for the creation or revision of testimony monitoring policies and applies to Department forensic laboratories and digital analysis entities. Department forensic laboratories and digital analysis entities are expected to develop testimony monitoring policies consistent with the criteria set forth in this document.

Testimony Monitoring

The testimony monitoring framework applies to testimonial presentations provided in a criminal proceeding by an examiner. Testimony monitoring is subject to legal rules imposed by the court or jurisdiction in which testimony is offered. Components should consider notifying requesters of analysis about the Department’s testimony monitoring policy well in advance of any testimonial event.

Testimony monitoring may be accomplished through transcript review or the direct observation of an examiner’s testimonial presentation by an evaluating official. A transcript should be requested promptly after any testimonial presentation subject to review under the component’s policy that is not directly observed by an evaluating official. For the purposes of this document, a video or audio recording is considered to be equivalent to a transcript.

Evaluation

Each testimonial evaluation shall assess whether the examiner’s:

1. Testimony is consistent with mandatory component policies and procedures regarding testimony about the forensic analysis of evidence;
2. Testimonial opinions, conclusions, and statements regarding the underlying case-specific facts or data were properly qualified and did not exceed the scientific limitations of the method performed or the discipline in question; and
3. Conclusions are in conformity with the directives of any applicable approved Uniform Language for Testimony and Reports document.

1 This document is not intended to, does not, and may not be relied upon to, create any rights, substantive or procedural, enforceable by law by any party in any matter, civil or criminal; nor does it place any limitation on otherwise lawful investigative or legal prerogatives of the Department.
In general, testimonial evaluations should be completed in writing within 30 calendar days of either receipt of the transcript or direct observation of the testimonial presentation. The date on which the testimonial evaluation is completed shall be recorded.

The official who completes a testimonial evaluation shall provide the result to, and review it with, the examiner who testified. The identity of this official and the date on which this testimonial evaluation meeting was conducted shall be recorded.

**Standards for Evaluation**

Testimonial presentations may be evaluated using whatever metric or qualitative assessment criteria each component deems appropriate. If a testimonial presentation is in substantive violation of any of the criteria listed above, as determined by the examiner’s component entity, components shall have a policy to address this circumstance.

In the event of a substantive violation of any of the criteria listed above, a component attorney and the attorney who sponsored the examiner shall be notified so that a legal determination can be made regarding further notifications to any appropriate official(s).

The date(s) on which the attorneys are notified of an examiner’s substantive violation of any of the listed criteria above shall be recorded.