

# Accreditation and Proficiency Testing

Linda Jackson and Patricia Manzolillo, Co-chairs

# APT Subcommittee

## Membership

- 21 members, 15 non-Commissioners
- Representation:
  - All 3 Accreditation bodies
  - State and Local laboratories
  - Private attorneys
  - Federal laboratories
  - Clinical laboratories

# APT Subcommittee

## Since the last Commission Meeting...

- Teleconference in November to discuss all public comments individually
- Comments were organized by theme
- Status updates were provided for other projects

## In-Person Meeting in January 2015

- 13 subcommittee members present
- Clarified the Universal Accreditation document based on discussions and comments
- Prepared comment adjudication document by theme
- Proficiency Testing and Steps to Accreditation subgroups met

# APT Priorities

- Current
  - Policy Recommendation – Universal Accreditation
  - Views Document - Critical Steps to Accreditation
  - Views Document - Proficiency Testing
- Future
  - Review of Accreditation Programs
  - Enforcement and Oversight Options

# Policy recommendation – universal accreditation

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Marvin Schechter – Sub-Group Chair

# Policy Recommendation

## Recommendation:

➤ It is recommended that all Forensic Science Service Providers (FSSP) become accredited.

## FSSP Definition:

- “A person or entity that 1) recognizes, collects, analyzes, or interprets physical 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 that render opinions based only on the review of data from examinations conducted by other entities should not be impacted by this recommendation.
- This document does not address Medical Examiners and Coroners.

# Document Clarification

- Background information was reorganized to clearly demonstrate the benefits and challenges of accreditation of FSSPs
- FSSPs were more clearly defined
- Appendices were added to allow for examples and explanations
  - Accreditation vs. Certification discussion

# Implementation Strategies (as amended)

- The Attorney General shall direct all DOJ FSSPs to maintain their accreditation and those FSSPs that are not yet accredited shall prepare and apply for accreditation within five 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.

# Implementation Strategies (as amended)

- 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 FSSP be accredited.
- The Attorney General shall require that federal prosecutions, in which the Federal prosecutor is in a position to request forensic testing, contract with accredited forensic science service providers. This provision does not apply to analyses conducted prior to the involvement of a federal prosecutor.

# Implementation Strategies (as amended)

- Finally, the Attorney General should encourage by all means possible the universal accreditation of all non-DOJ FSSPs with any available enforcement mechanisms.

# Adjudication of Public Comments

- What oversight or standards will be required for the accrediting bodies?
- Response: Language has been added to the background and implementation sections to clarify that ILAC MRA recognized accreditation bodies using ISO standards are recommended. The subcommittee anticipates seeking the Commission's approval to address and make separate recommendations regarding the current system of accreditation in the United States.

# Adjudication of Public Comments

- Many comments raised concerns about the costs associated with accreditation.
- Response: Accreditation should be considered an integral part of the FSSP's quality system and thus be included in general operating budgets. The implementation strategy allows for FSSPs to receive DOJ grant funding while in the process of obtaining accreditation. "In the process of becoming accredited" was not further defined. DOJ has the responsibility to define "in the process" in a manner that allows it to assess the FSSP's status within a particular grant solicitation. The implementation strategy regarding grant funding to non-DOJ FSSPs applies only to the FSSP portion of any entity. The subcommittee will consider preparing a separate document that will include general cost estimates associated with accreditation, showing how they are scalable for different size providers.

# Adjudication of Public Comments

- Comments raised concerns regarding the use of only accredited forensic science service providers by federal prosecutors
- Response: The implementation strategy was clarified as follows “The Attorney General shall require that federal prosecutions, in which the Federal prosecutor is in a position to request forensic testing, contract with accredited forensic science service providers. This provision does not apply to analyses conducted prior to the involvement of a federal prosecutor.”

# Adjudication of Public Comments

- How is the policy meant to be applied to specialty examinations, consultants, academics, sole practitioners?
- Response: Footnote 1 was clarified and Appendix A was added. An entity would be considered a FSSP if it satisfies the definition in footnote 1 (examples are provided in Appendix A) and if the examination performed is within the scope of an existing accreditation program.

Footnote 1: “A person or entity that 1) recognizes, collects, analyzes, or interprets physical 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 that render opinions based only on the review of data from examinations conducted by other entities should not be impacted by this recommendation. This document does not address Medical Examiners and Coroners.”

This document is not establishing an admissibility standard. It is addressing a means to improve FSSPs. All examinations are still subject to review under applicable law before being admitted.

# Adjudication of Public Comments

- What date is appropriate to require universal accreditation?
- Response: The subcommittee has members working in a wide variety of FSSPs and has reconsidered regulatory, fiscal, and administrative issues. The subcommittee still finds five years to be sufficient to prepare and apply for accreditation.

# Adjudication of Public Comments

- Several comments raised the concern that Practitioner Certification should be substituted for accreditation especially for a one person lab.
- Response: Certification and accreditation are different and are not interchangeable. The subcommittee addressed this discussion by adding Appendix B.

# Accreditation vs. Certification

- 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.

# Accreditation vs. Certification

- Professional certification, 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 their 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 their work. It also does **not** assess methods, procedures, testimony, reports, documentation, equipment, validation, measurement uncertainty, facilities, evidence handling, security, safety procedures used by the individual.

# Accreditation vs. Certification

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

# Amendment

- Universal accreditation will improve FSSP ongoing compliance with industry best practices, promote standardization, and improve the quality of services provided by FSSPs nationally. **However, the presence or absence of accreditation should not influence a court's determination as to the admissibility of the proffered witness or evidence.**<sup>[4]</sup>

<sup>[4]</sup> **Accreditation and admissibility are independent assessments. The goal of accreditation is the overall improvement of the practice of FSSPs. Admissibility determinations involve assessing the proffered evidence, applying the criteria enunciated in e.g. Daubert, Frye, FRE 702, and various state law. Accreditation should not, however, guarantee the admissibility of analyzed evidence. Accreditation assesses a FSSP's capabilities and does not review all of its casework or assess the underlying validity of a forensic discipline.**

# Proficiency Testing

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Karin Athanas – Sub-Group Chair

# Views Document - Introduction

- Goals
  - What is proficiency testing?
  - How has it historically been used?
  - What are the limitations of proficiency testing?
  - What actions can be taken to increase:
    - Participation
    - Quality
    - Acceptance

# Proficiency Testing - Background

- Proficiency Testing is an evaluation of participant performance against pre-established criteria by means of inter-laboratory comparisons for the determination of participant performance.
- Benefits:
  - Demonstration of the ability to perform successfully
    - Practitioner, methodology, instrumentation, reporting
  - Demonstration of successful performance of the population
  - Increased confidence in performance

# Proficiency Testing – Involved Entities

- The proficiency test user
- The proficiency test provider
- The accreditation body/ approving authority
- The regulator/ accreditation body requiring participation

# Oversight of Proficiency Test Providers

- Evaluation of proficiency testing providers is performed by:
  - Participants to confirm:
    - Availability
    - Applicability
    - Value of reported results
    - Cost
  - Accreditation bodies and Regulators to confirm:
    - Compliance with set requirements
      - Test development, methodology, preparation, validation, output
      - Statistical techniques used to evaluate results
      - Subcontractors used to create test samples
      - Quality control and testing practices to ensure homogeneity
    - Value and reliability of reported results

# Oversight of Proficiency Test Providers

- Approval/Accreditation Programs
  - Approval programs
    - States:
      - Maryland Forensic Licensure
      - California
    - Third-party organizations
      - ASCLD/LAB - American Society of Crime Laboratory Directors/Laboratory Accreditation Board

# Oversight of Proficiency Test Providers

- Approval/ Accreditation Programs
  - Accreditation programs
    - **1997-2010:** ISO/IEC Guide 43
    - **2010:** ISO/IEC 17043 *Conformity Assessment – General Requirements for Proficiency Testing*
    - **2010:** The Asia Pacific Laboratory Accreditation Cooperation (APLAC) issued the first Mutual Recognition Arrangement (MRA) for accreditation bodies accrediting proficiency test provider to the ISO/IEC 17043 standard
    - A2LA – American Association for Laboratory Accreditation
    - ANAB - ANSI-ASQ National Accreditation Board (formerly ACLASS & FQS)

# Proficiency Testing - Limitations

- The sample created as part of the proficiency test may not yield the expected result
- The test can become predictable when the same test format is used in each case
- The test may not be consistent with the methodology currently in practice
- The test does not accurately simulate case work conditions
- The test does not identify the cause of an unsuccessful result (e.g. practitioner, methodology, instrumentation)

# Current Status

- 2009 Bureau of Justice Statistics census results
  - Of 398 publicly funded laboratories, 98% reported using some form of proficiency testing
    - 97% reported using open or declared tests
    - 36% reported the use of random case reanalysis
    - 10% of those engaged in testing reported using blind tests
- Participation required:
  - Federal DNA Identification Act (42 U.S.C. §14132)
  - State statute/regulation (e.g. California, Maryland)
  - Accreditation Bodies

# Current Status

- Initial surveys of the community have identified:
  - 17 – Proficiency test providers
  - 2 – Accreditation program for PT providers
  - 1 – Third-party Approval program for PT providers
  - 7 – Accreditation bodies requiring participation in proficiency testing

# Proficiency Testing – Future Actions

- Forensic science service providers could consider
  - Implementing proficiency testing programs in each discipline
  - Ensuring that each practitioner participates
- Certification Bodies could consider
  - Requiring proficiency testing as part of certification and re-certification.
  - Working with the proficiency test provider to produce a proficiency test that is reflective of the casework in that discipline/sub-discipline.

# Proficiency Testing – Future Actions

- Accrediting bodies of FSSPs could consider
  - Standardizing proficiency test requirements.
  - Conducting independent assessments of proficiency test results.
  - Ensuring that internal proficiency test plans are developed and reviewed as part of the forensic science service provider's accreditation assessment.
  - Requiring forensic science service providers to include infrequent or specialty examinations in their proficiency testing program.

# Proficiency Testing – Future Actions

- Proficiency test providers could consider
  - Seeking compliance to ISO/IEC 17043 and/or approval program requirements (e.g. ASCLD/LAB)
- Legal Community could consider
  - Making proficiency testing a typical item of discussion during the pre-trial conference.

# Proficiency Testing - Summary

- Other issues discussed:
  - Impact and cost of increased demand for proficiency testing
  - Impact on non-government organizations
  - Benefits
    - Standardization
    - Increase availability
    - Increased quality

# Critical steps to accreditation

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Pete Marone – Sub-Group Chair

# Views Document

- To be used by FSSPs while working towards accreditation
- Will discuss changes to workplace culture and acceptance of quality processes
  - Because it's a good idea
- Will discuss resources needed
- Will include major elements required for accreditation
- Will include appendix with cost estimates for different sized FSSPs
- May include discussion on creating relationships with other entities as necessary to share resources for review, internal audit, etc.

# Elements

- Written procedures for Evidence (security/control/handling)
- Required Written reports
- Technical Review of reports and supporting records
- Testimony monitoring
- Note-taking
- Training Program
- Proficiency Testing

Any Questions?