



**AMERICAN SOCIETY OF
CRIME LABORATORY DIRECTORS, INC.**

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December 22, 2015

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Attn: Interim Solutions Subcommittee

The American Society of Crime Laboratory Directors represents more than 600 members of crime laboratory directors and forensic science managers dedicated to providing excellence in forensic science through leadership and innovation. The membership represents both private and public institutions from all 50 states in the U.S. and eighteen countries from across the globe. Our mission is to promote the effectiveness of crime laboratory leaders throughout the world by facilitating communication among members, sharing critical information, providing relevant training, promoting crime laboratory accreditation, and encouraging scientific and managerial excellence in the global forensic science community.

ASCLD is dedicated to advancing forensic science through a multitude of initiatives including the National Commission on Forensic Science. ASCLD currently has twenty-five members serving on the Commission and its subcommittees. The efforts of the Commission are important and have significant implications for the entire criminal justice community. As a result, the ASCLD Board of Directors offers the following comments, recommendations, and impact statements for consideration by the subcommittee for the "*Directive Recommendation: Transparency of Quality Management System Documents*".

ASCLD remains ready to be a continuing resource to assist the Commission and the Department of Justice in the development of these important work products for the forensic science community so that a broader based acceptance and implementation of these products may be realized.

Regards,

ASCLD Board of Directors



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ASCLD Board Comments

Directive Recommendation: "Transparency of Quality Management System Documents"

Board Summary:

The currently proposed Draft on "***Transparency of Quality Management System Documents***" dated November 9, 2015 lists three (3) recommended directives in regards to Quality Management System Documents. In general, the Board has no specific concerns regarding directives that require forensic science providers to make their quality management system documents related to policy and procedure publicly available. The following are specific concerns, explanations, recommended wording, and new recommendations to help further the discussion:

- **Issue #1**

Statement of Issue: (2nd paragraph - Heading #2) "*Internal Validation Summaries*"

Problem: Most forensic providers perform some type of internal validation for new protocols, techniques and equipment etc.... The format, content and scope of how that information is presented can vary dramatically. In order to provide guidance and protect the provider from undue criticism, the phrase "internal validation summaries" should be defined.

Recommended Wording: "The executive summary of each validation should contain the following: scope, summary of major events/experiments performed, summary of results, summary of major conclusions and the summary of methods implemented by the forensic provider."

- **Issue #2**

Statement of Issue: (2nd paragraph - Heading #4) "*Recommendations from RCAs undertaken.*"



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Problem: This heading suggests a record must be compiled by the forensic provider. Even though there are caveats and exclusions under this portion of the directive (e.g., privileged or attorney work), it can be problematic to extract a recommendation from an RCA, make it publicly available and not provide a basis. For instance, publishing "incomplete" information could result in unfair and unnecessary forensic provider criticism by the media and/or legal advocates resulting in a situation where a provider has to "account" for adopting or not adopting the RCA but with no way to explain their decision because the base information was determined to be confidential. Thus, the suggestion below is to provide guidance for the minimum required elements of a RCA recommendation disclosure.

Recommended Wording: "Recommendations from RCAs undertaken, including at a minimum any changes made to quality documents, notifications issued to any stakeholders (without identifying the entity) regarding the impact of the nonconformity, any resultant Brady implications the lab is aware of, number of cases reviewed/audited as a result of the issue, and number of cases where an amended report was necessary. 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."

- **Issue #3**

Statement of Issue: (3rd paragraph) *"While sometimes necessary, redactions of personnel information, protected intellectual property, or sensitive law enforcement procedures should be limited"*

Problem: During the disclosure process, forensic providers walk a fine line of determining what can and cannot be disclosed. It seems like the language of this statement, without clarification, potentially encourages the provider to violate areas of law with which they may not have expertise. For instance, personnel law is governed by complex, local and federal statutes such as HIPAA – Health Insurance Portability and Accountability Act and protected intellectual property law is a whole other area of study.



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The scope of this document is potentially far-reaching and may impact providers (crime scene units, small laboratories, OME units, etc...) who do not have convenient and adequate legal resources. Thus, it is important to clarify this statement and encourage providers to remain in compliance with local statutes.

Lastly, the term "sensitive law enforcement procedures" is unclear.

Recommended Wording: "While sometimes necessary, redactions of personnel information, protected intellectual property, or sensitive law enforcement procedures should be as limited as possible while still allowing forensic providers to comply with applicable labor, intellectual property, and other applicable public record statutes."

Additional Recommendation: Define sensitive law enforcement procedures.

- **Issue #4**

Implementation: (1st paragraph, 2nd sentence) *"Any redactions to protect personnel information, intellectual property or sensitive law enforcement procedures shall be limited"*

Problem: This sentence has been changed from a "should" in the statement of issue to a "shall" in the implementation.

Recommendation: The "shall" in the implementation section should be amended to a "should" to match with the recommendation in Issue #3 above.

Further Recommendations:

- **Recommendation #1:**

Problem: The management of Quality Management System documents is labor intensive. This requirement can be lessened with the purchase of specialized software but nonetheless, personnel time will need to be dedicated to the



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maintenance and upkeep of the program as well as IT, website infrastructure. Thus, the implementation of this recommendation will have a significant fiscal impact to all providers.

Recommendation: The National Commission on Forensic Science (NCFS) should recommend that the Attorney General include dedicated funding for state and local laboratories in the DOJ budget recommendation to the President of the United States. This funding would be used to facilitate IT resources to provide these materials on agency external websites, establish and maintain stakeholder login portals and manage the collating and updating process of these documents by the local and state forensic providers. Funding resources should also be included for automated document software programs as well as personnel to manage them. It is important to note, however, that existing grant funding for forensic laboratories such as the Paul Coverdell grant should not be supplanted by monies made available for the purposes of this recommendation.

- **Recommendation #2:**

Problem: There are many laboratories in the vanguard of document disclosure. By including only those in footnotes #1 and #2, it implies that only those few cited are in compliance and the rest of the countries providers are not.

Recommendation: Remove the examples cited in footnotes #1 and #2.

- **Recommendation #3:**

Recommendation: The curricula vitae (CV's) of all laboratory staff (analyst, scientist, manager) should also be provided.