



# NATIONAL COMMISSION ON FORENSIC SCIENCE

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

## Recommendation to the Attorney General Documentation, Case record and Report Contents

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### **Type of Work Product:**

Adjudication of Public Comments on Draft Document

### **Public Comment Summary:**

The document was posted as proscribed by Commission by-laws. Two organizations and four individuals submitted comments. Most were supportive. Some comments related to the document “Views on Report and Case Record Content” and will be addressed in connection with that document.

### **Adjudication Process Used by Subcommittee:**

The working group reviewed the comments and conferred by telephone and by email and presented a revised document to the subcommittee for a vote. The subcommittee voted 18 – 0 in favor of approving the revised document.

### **Itemized Issues and Adjudication Summary:**

1. The Association of State Criminal Investigative Agencies (ASCIA) supports the Recommendation and had a comment on the Views document about documenting and disclosing investigative information.
2. The American Society of Crime Laboratory Directors (ASCLD) Board of Directors supports the Recommendation and had comments on the Views document about the type of disagreements or discussions between analysts that should be documented.
3. One individual commented that Recommendation 1 would be interpreted narrowly by some in the forensic science community such that some reports would provide only a conclusory statement of the actual work done (e.g. “the two items were compared”) and no information to demonstrate the basis for the conclusion rendered (e.g. why the items were deemed to come from the same source).

“Records allowing another analyst or scientist ... to understand and evaluate the all the work performed” clearly requires more than a conclusory statement that a comparison was done. To the extent that there might be those who take a more cynical approach to Recommendation 1 the subcommittee is working on a Views document that gives detailed guidance for compliance with Recommendation 1 and 3.

4. One individual asked that the language in Recommendation 4 be expanded to include the phrase “by a qualified analyst or scientist from the same field.” The commenter was concerned that without this language the recommendation “will leave the door wide open for improper evaluation and interpretations by unqualified people.”

Recommendation 1 makes clear that the documentation required is that which is sufficient “to allow another analysts or scientist, with proper training and experience, to understand and evaluate all the work performed.” The document is not intended to and does not purport to address who is qualified or who can and who cannot evaluate the work.

5. One individual appeared to be arguing that Recommendation 4 was unnecessary because all the information needed would be in the report as described in Recommendation 3.

As explained in Recommendation 2 some documentation required to satisfy Recommendation 1 need not be and likely will not be in the report. Even the most comprehensive report will not include the SOPs, sampling plans, raw data, communication logs etc., thus, the need for the statement in Recommendation 4.

6. One individual had several clarifying suggestions all of which were addressed in the changes made. In addition, the commenter suggested that “measurement error” should replace “the estimated uncertainty or variability” and that the requirement that “possible sources of error” be identified should be removed.

Based on the discussion at the Commission meeting both phrases remain in the recommendation with the clarification that both “uncertainty *and* variability” should be addressed as they are distinct pieces of information. As discussed also discussed at the Commission meeting, reporting on “possible sources of error” is not seeking information about possible mistakes (e.g. evidence mishandling, dropping equipment) but information specific to the “possible sources of error” in the method or process used even when done properly.

7. Department of Justice staff provided several formatting comments.

All the suggested changes were adopted.