

Best Practice Recommendation for Testimony Monitoring

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Organization of Scientific Area Committees (OSAC) for Forensic Science*



OSAC Proposed BPR

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Version: 1.0
September 2020

Disclaimer:

This document has been developed by the Friction Ridge Subcommittee of the Organization of Scientific Area Committees (OSAC) for Forensic Science through a consensus process and *proposed* for further development through a Standard Developing Organization (SDO). This document is being made available so that the forensic science community and interested parties can consider the recommendations of the OSAC pertaining to applicable forensic science practices. The document was developed with input from experts in a broad array of forensic science disciplines as well as scientific research, measurement science, statistics, law, and policy.

This document has not been published by a SDO. Its contents are subject to change during the standards development process. All stakeholder groups or individuals are strongly encouraged to submit comments on this proposed document during the open comment period administered by the Academy Standards Board (ASB).

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1. Introduction

- 1.1. This document has been developed with the objective of improving the quality and consistency of friction ridge examination practices.
- 1.2. Testimony Monitoring evaluates the performance of the examiner in legal proceedings.
- 1.3. The information provided within testimony shall be clearly articulated so that all stakeholders understand what is being communicated and to ensure that opinions are scientifically supported. The Forensic Service Provider (FSP) shall have a written policy detailing the framework for monitoring testimony.
- 1.4. In this document, the following verbal forms are used: “*shall*” indicates a requirement, “*should*” indicates a recommendation; “*may*” indicates permission; and “*can*” indicates a possibility or capability.

2. Scope

- 2.1. This document prescribes the best practice recommendations for testimony review of personnel by a Forensic Service Provider (FSP). Testimony monitoring is required for personnel who are providing expert witness testimony for the examination and results being reported. The FSP shall assess whether personnel accurately conveyed the methods, limitations, and interpretations of the work they performed and if the testimony is consistent with the current state of the latent print discipline.
- 2.2. This document does not address the technical review of results of latent print examinations.

3. Terms and Definitions

For the purposes of this document, the following terms and definitions apply.

- 3.1. Competency: Possessing and demonstrating the requisite knowledge, skills and abilities to successfully perform a specific task.
- 3.2. Corrective Action: An action to eliminate the cause of a non-conformity and to prevent recurrence. NOTE: A corrective action is taken to prevent recurrence whereas a preventive action is taken to prevent occurrence.
- 3.3. Examiner (Friction Ridge)/Competent Friction Ridge Examiner: An individual who has successfully completed their FSP’s training program and has demonstrated to the FSP that they possess the knowledge, skills and abilities to perform the tasks required of their current position. An individual authorized to conduct friction ridge examinations for the FSP by observing and interpreting data, making decisions, forming conclusions and opinions, issuing reports and/or providing testimony.

- 3.4. Forensic Service Provider (FSP): A forensic science entity or forensic science practitioner providing forensic science services.
- 3.5. Nonconforming work: Work that does not comply with FSP policies and procedures.
- 3.6. Preventive Action: An action to eliminate the cause of a potential non-conformity or other potential undesirable situation. NOTE: A preventive action is taken to prevent occurrence whereas a corrective action is taken to prevent recurrence.
- 3.7. Technical review: A qualified second party's evaluation of reports, notes, data, and other documentation to ensure there is appropriate and sufficient support for the actions, results, conclusions, opinions and interpretations.

4. General Recommendations

- 4.1. Testimony review mechanisms may consist of either or both of the following:
 - 4.1.1. Direct observation of testimony.
 - 4.1.2. Review of written transcript, video, or audio recording of testimony.
- 4.2. Testimony reviews shall be completed by FSP-authorized individuals who have been competency tested in the discipline of the subject matter being testified to/category of testing. Examiners may not review their own testimony(ies).
- 4.3. A testimony monitoring form should be completed and retained (sample form in Appendix A) according to FSP policy.
- 4.4. The following criteria shall be considered during testimony review, as applicable:
 - 4.4.1. Did the examiner accurately describe their qualifications, duties, and examinations per FSP policy?
 - 4.4.2. Did the examiner accurately convey their results, opinions, and/or interpretations of the evidence within the limits of their expertise?
 - 4.4.3. Did the examiner convey appropriate, scientifically supportable results and/or other limitations?
 - 4.4.4. Did the examiner testify in an impartial manner?
- 4.5. The following criteria should be considered during direct observation or video review of testimony (given that these criteria cannot be monitored by reading a transcript):
 - 4.5.1. Did the examiner exhibit professional demeanor and appearance?

- 4.5.2. Did the examiner demonstrate appropriate verbal and non-verbal communication?
- 4.5.3. Did the examiner present appropriate demonstrative exhibits, if applicable?
- 4.6. The testimony review shall be discussed with the examiner and documented according to FSP policy.
- 4.7. The FSP shall have a policy that prescribes the appropriate action (preventive or corrective) that should be taken if a non-conformance has occurred.
 - 4.7.1. This policy shall include when it is appropriate to further notify any court official(s).
- 4.8. The FSP should have a policy that prescribes how often testimony monitoring occurs (e.g. annually).

5. Appendix A: Sample Testimony Technical Review Form

Testimony Technical Review Form

Examiner: _____ Date of Testimony: _____
 Discipline: _____ Laboratory Control #: _____
 Technical Reviewer: _____ Date case records were reviewed: _____
 Judge or Courtroom #: _____

Sub-disciplines/ types or methods of analysis or inspection that was testified to:

Did the examiner have a professional demeanor and appearance? Yes No
 Comments: _____

Was the examiner well prepared for their testimony? Yes No
 Comments: _____

Did the examiner accurately describe their qualifications and duties? Yes No
 Comments: _____

Did the examiner accurately present the evidence? Yes No
 Comments: _____

Were the results, opinions, and/or facts presented accurately? Yes No
 Comments: _____

Were the testing or inspection methods accurately explained? Yes No
 Comments: _____

Was it clearly indicated when information presented was interpretation or opinion and any relevant limitations? Yes No
 Comments: _____

Was there any information conveyed that was not accurate? Yes No

If yes, did the inaccuracy fundamentally impact the perception of the information that was presented? Yes No
 Comments: _____

Are there any indications of Nonconformance? Yes No
 If yes, Nonconformance workflow ID # _____

Technical Reviewer: _____ Date: _____

Quality Assurance Manager: _____ Date: _____

Examiner: _____ Date: _____

6. Appendix B: Change Log

Version	Date	Change
1.0	09/30/2020	Original Issue