



**STATEMENT OF THE OSAC LEGAL TASK GROUP**  
**COMMENT TASK GROUP on ANSI/ASB STANDARD 053 - Standard for**  
**Report Content in Forensic Toxicology**

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**TO:** OSAC

**FROM:** Legal Task Group (LTG) - CTG (Ron Reinstein, Lori Varnell, Kate Philpot, Andrea Roth, Chris Plourd)

**DATE:** November 2, 2020

**RE: ANSI/ASB Standard 053 - Standard for Report Content in Forensic Toxicology**

The LTG Comment Task Group consisting of Ron Reinstein, Lori Varnell, Kate Philpot, Andrea Roth, and Chris Plourd) has reviewed this standard for comment. While the group is not recommending that the standard be withheld from the registry, we submit these comments in the hope that they will be considered in later revisions to the standard.

#### Comments Regarding Section 4

"Elements of a Laboratory Report" section (sec 4); methods/techniques used and "possible sources of error and limitations in the method" should be required elements. (Nat'l Comm'n on Forensic Sci., Recommendation to the Attorney General Documentation, Case Record, and Report Contents (Sept. 13, 2016), available at <https://www.justice.gov/archives/ncfs/page/file/905536/download>). There is a requirement to include "technique(s) of analysis" in this standard, but it appears under the section on reporting lab results (sec 5). There are requirements related to limitations scattered throughout the standard (secs. 4.4, 4.5, 5.1(c)). It would be better to have them all addressed in the "elements" section and to include a broad phrase to cover any limitation or potential source of error. For example, potential contamination during testing would not seem to fall under any of the discrete limitations sections referenced above. Sections 4.4, 4.5, and 5.1 could be replaced by a single, broader requirement to include possible sources of error and limitations in the method, with limitations described in §§ 4.4, 4.5 and 5.1(c) as examples.

#### Comments Regarding Section 5.1

Further re: 5.1(c), reporting limit/limit of detection should be in the report. At very least, the report should state exactly where this information can be found in the case file.

Sec 5.5 essentially makes reporting uncertainty associated with quantitative results optional. For example, a lab could structure its protocols to avoid the uncertainty. We feel this reporting should be required, but if such reporting is not required, the laboratory should be required at least to include in the report that the uncertainty is unknown (NCFS Recommendation, supra).

### Comments Regarding Section 7.3

We feel this section fails to address the forensic practitioner's obligations regarding exculpatory evidence as it relates to paragraph 7.3. Specifically, when an issued report is being corrected:

1. The standard should provide guidance for the practitioner related to when corrective reports should and must be issued and should include a "shall" statement as to when a report *must* be restated. For example, "If a prior report falsely states a conclusion included in paragraphs 5.2-5.6 or if a report has been issued that creates a false impression in the user's mind as to the identified results, the practitioner shall issue an amended report. If the practitioner learns that information in a prior report should be clarified in order to fairly state the outcome of forensic testing, the practitioner shall issue an amended report."
2. The standard should provide guidance for setting up protocols for tracking and issuing amended reports. This guidance should include standards for limiting the circulation of the original uncorrected report and for notice to the users of the report as to the correction. These should be "shall" statements since they touch on the exculpatory obligations of the practitioner.
3. The standard should provide guidance related to when additional information "shall" be included in an amended report, such as when the issue that gave rise to the needed correction is indicative of a larger problem that would bring into question the process used, the contamination of the evidence, or when further investigation into the lab or its personnel is required.

### Comments Regarding Section 8

Sec 8, second paragraph. We recommend the word "shall." This section is imperative. Alternatively, in section 8(c), if citations are not included in the report, the report itself should state that the citations are available upon request. Generally, the report should state something along the lines of (taken from NCFS Recommendation), "the report does not contain all of the documentation associated with the work performed. In order to understand and evaluate all the work performed, and independently analyze and interpret the data and draw conclusions, a review of the case record is required."