



February 3, 2023

Empire State Development Corporation

633 3rd Ave
37th Floor
New York, NY

Videoconference Locations:

107 College Place, Life Sciences Building 120, Syracuse, NY
Shapiro Bldg., Rm. 5044, 70 Francis Street, Boston, MA

9:05 AM – 9:55 AM

DRAFT MEETING MINUTES

DNA Subcommittee Members in Attendance:

Frederick Bieber, Ph.D.¹
Kathleen Corrado, Ph.D.
Katherine Gettings, Ph.D.
Ken Kidd, Ph.D.
Jenifer Smith, Ph.D.
Amanda Sozer, Ph.D.

DCJS Staff in Attendance:

Dean Defruscio
Jill Dooley
Colleen Glavin, Esq.
Natasha Harvin-Locklear, Esq.
Katherine Mayberry
Shelley Palmer
Brianna Robinson
Lindsey Rockwell

Other Attendees:

Raymond Valerio – Queens District Attorney

¹ Bieber attended via telephone in accordance with the Open Meetings Law, Bieber will not be counted toward quorum and voting requirements. However, this does not affect the outcome of the meeting.

Dr. Dooley opened the meeting by stating that materials from both the canceled November 18, 2022, and today's meeting will be discussed. She continued by stating that Dr. Weir was unable to attend, and that Dr. Gettings will act as chair in his place. Dr. Gettings then welcomed new member Dr. Kathleen Corrado, who will be representing the discipline of laboratory standards and quality assurance regulation. Dr. Gettings then conducted a roll call as members of the Subcommittee were in attendance in New York and virtually. A quorum was established with 5 members present (Corrado, Gettings, Kidd, Smith, and Sozer).

00:00:00 –
00:02:20

Dr. Gettings then asked for a motion to approve the February 3, 2023 agenda. A motion to approve the agenda was made by Dr. Smith, seconded by Dr. Sozer, and approved unanimously.

00:02:23 –
00:02:53

The Chair then asked Subcommittee members for questions or comments on the minutes from the August 5, 2022, meeting of the Subcommittee. Dr. Smith made a motion to approve the minutes, seconded by Dr. Kidd, and approved with four votes (Gettings, Kidd, Sozer, Smith) and 1 abstention (Corrado).

00:02:57 –
00:03:37

Next, the Subcommittee reviewed Accreditation/Laboratory updates from the Erie County Central Police Services Forensic Laboratory, Monroe County Crime Laboratory, Nassau County Division of Forensic Services, New York City OCME Department of Forensic Biology, New York State Police Crime Laboratory, Onondaga County Center for Forensic Sciences, Suffolk County Crime Laboratory and Westchester County Division of Forensic Sciences. Representatives from the laboratories were available to answer questions as needed.

00:03:40 –
00:26:15

During Accreditation/Laboratory updates, the Subcommittee reviewed the final documentation from the ANAB reaccreditation assessment activity of the Nassau County Division of Forensic Services. Dr. Gettings called for a motion to issue a binding recommendation to the Commission on Forensic Science to renew the New York State Accreditation of the Nassau County Division of Forensic Services in the discipline of Biology for the period concurrent with its ANAB accreditation to expire February 28, 2027. Dr. Smith made the motion, Dr. Sozer seconded the motion, and the motion was approved unanimously.

00:05:05 –
00:09:16

The Chair then moved to Old Business. A verbal update was provided on the Partial Match and Familial Search programs. Dr. Dooley provided updates to the First Judicial Department in the Appellate Division ruling in the Matter of Stevens et. al., v. The New York State Division of Criminal Justice Services, the New York State Commission on Forensic Science, and the DNA Subcommittee of the New York State Commission on Forensic Science. The Familial Search program remains paused, awaiting a hearing of the appeal to be scheduled. Special Counsel, Natasha Harvin-Locklear, also gave a brief update that the District Attorneys Association submitted a brief supporting the position of DCJS. There were no updates regarding CODIS Bulletins.

00:26:18–
00:28:54

The Chair then moved to New Business with Dr. Dooley providing an update regarding the 2022 CODIS Audit memo and the 2022 Annual Laboratory Summaries. Special Counsel Harvin-Locklear gave notice regarding Governor Hochul's 2023 State of the State address,

00:28:56 –
00:37:03

in which a proposal to allow DNA samples from recovered firearms to be uploaded into the database was discussed. Special Counsel then provided an update regarding the Videoconferencing Policy for Open Meetings pursuant to Chapter 56 of the Laws of 2022 and initiated the public hearing to receive comments on the policy. No oral testimony or written statements were received.

Dr. Gettings then requested a motion to enter Executive Session to discuss matters relating to a current investigation or matters that may lead to the appointment, promotion, demotion, discipline, or suspension of a person. Dr. Smith made the motion, which was seconded by Dr. Kidd and approved unanimously.

00:37:07 –
00:37:59

The Subcommittee adjourned into Executive Session with all present members in attendance. The Subcommittee discussed ongoing investigations, and no action was taken. Executive Session commenced at 9:42 AM and concluded at 9:53 AM. The Subcommittee reconvened the Open Meeting.

The Chair stated that the next meeting of the Subcommittee will take place on May 12, 2023. A motion to adjourn was made by Dr. Smith, seconded by Dr. Sozer, and approved unanimously.

00:38:39 –
00:39:31

Note: Video of the meeting is available at <https://www.youtube.com/user/nyspublicsafety>



NYC
**Office of Chief
Medical Examiner**



Timothy D. Kupferschmid, MBA, MFS
Chief of Laboratories
Charles S. Hirsch Center for Forensic Sciences
421 East 26th Street
New York, New York 10016
Telephone: 212-323-1300 Fax: 212-323-1590
Email: tkupferschmid@ocme.nyc.gov
Official Website: www.nyc.gov/ocme

April 20, 2023

Rossana Rosado, Commissioner
Division of Criminal Justice Services
Alfred E. Smith Office Building
80 South Swan Street
Albany, NY 12210
Via Rossana.Rosado@dcjs.ny.gov

Dear Commissioner Rosado:

I am writing to inform the New York State Commission on Forensic Science that Assistant Director of Forensic Biology Tiffany Vasquez will be taking on the role of DNA Technical Leader, effective May 1, 2023. The Department of Forensic Biology is fortunate that Craig O'Connor, who has served admirably as the DNA Technical Leader since 2019, will continue as one of two Deputy Directors of the Department of Forensic Biology. Being a Deputy Director and a DNA Technical Leader is too much for one person, and it has always been my intention to split these responsibilities at the right time.

Thank you and please do not hesitate to let me know if you have questions or wish to discuss this matter.

Sincerely,

Timothy D. Kupferschmid, MBA, MFS

c: Jill Dooley, Director, DCJS Office of Forensic Services
forensiclabs@dcjs.ny.gov
anab@anab.org, ANSI National Accreditation Board (ANAB)



February 6, 2023

Ray Wickenheiser
New York State Police Crime Laboratory
1220 Washington Avenue, Bldg #30
Albany, NY 12226

Dear Director Wickenheiser,

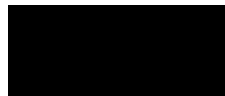
Congratulations! On February 6, 2023, ANAB approved the continuation of your organization's accreditation based upon the results of your recent surveillance activity. Continuation of accreditation is a formal acknowledgement that your organization continues to operate in conformance with accreditation requirements. The report was provided to you during the assessment activity.

The provided ANAB accreditation symbol may be used to convey your accredited status. An accreditation symbol must not be used in any way which implies accreditation in any area outside of the scope of accreditation. If appropriate, the accreditation symbol may be used on your organization's website, reports, letterhead, business cards, and other official documents. Please refer to [PR 1018 Policy on Use of ANAB Accreditation Symbols and Claims of Accreditation Status](#) for all required information. This policy also provides information on your ability to use a combined mark that contains the ANAB accreditation symbol and the International Laboratory Accreditation Cooperation (ILAC) mark.

The next assessment activity is scheduled to be a Surveillance Assessment in January 2024.

Thank you for your ongoing commitment to quality and the accreditation process.

Sincerely,



Janet M. Girten
Senior Manager of Accreditation
ANSI National Accreditation Board

cc: David M. Pulikowski, Director of Quality Assurance
ANAB Office



ANSI National Accreditation Board

**SCOPE OF ACCREDITATION TO:
ISO/IEC 17025:2017**

**ANAB Forensic Testing & Calibration AR 3125:2019
FBI Quality Assurance Standards for Forensic DNA Testing Laboratories:2020
FBI Quality Assurance Standards for DNA Databasing Laboratories:2020**

New York State Police Crime Laboratory
(see locations listed below)

FORENSIC TESTING

Expiry Date: 31 May 2026

Certificate Number: FT-0025

Forensic Investigation Center
1220 Washington Avenue
Albany, New York 12226 USA

Discipline: Biology		
Component/Parameter	Item	Key Equipment/Technology
DNA Profile Determination	Short Tandem Repeat (STR) Y-Short Tandem Repeat (Y-STR)	Capillary Electrophoresis
DNA Profile Determination (Database Samples)	Short Tandem Repeat (STR) Y-Short Tandem Repeat (Y-STR)	Capillary Electrophoresis
Individual Characteristic Database	DNA Profile	National DNA Index System (NDIS)
Physical Comparison	DNA Profile	Software Program
Qualitative Determination	Body Fluid Epithelial Cell	Chemical Fluorescence Spectroscopy General Microscopy Immunoassay

Discipline: Fire Debris and Explosives		
Component/Parameter	Item	Key Equipment/Technology
Qualitative Determination	Fire Debris	Gas Chromatography Mass Spectrometry

Discipline: Firearms and Toolmarks		
Component/Parameter	Item	Key Equipment/Technology
Function Evaluation	Firearm	Measuring Equipment
Individual Characteristic Database	Ammunition	National Integrated Ballistic Information Network (NIBIN)
Physical Comparison	Ammunition	General Microscopy Measuring Equipment Software Program Visual
Qualitative Determination	Ammunition Firearm Metal	Chemical General Microscopy Measuring Equipment Reference Collection
Serial Number Restoration	Physical Item	Chemical General Microscopy Magnetic Visual

Discipline: Friction Ridge		
Component/Parameter	Item	Key Equipment/Technology
Enhancement	Ridge Detail	Chemical Physical Software Program
Individual Characteristic Database	Ridge Detail	Next Generation Identification System (NGI)
Physical Comparison	Ridge Detail	Software Program Visual
Physical Comparison (Tenprint)	Ridge Detail	Software Program Visual

Discipline: Materials (Trace)		
Component/Parameter	Item	Key Equipment/Technology
Qualitative Determination	Hair	General Microscopy

Discipline: Seized Drugs		
Component/Parameter	Item	Key Equipment/Technology
Qualitative Determination	Botanical Liquid Solid	Chemical Gas Chromatography General Microscopy Infrared Spectroscopy

		Liquid Chromatography Mass Spectrometry Raman Spectroscopy Thin-Layer Chromatography Ultraviolet Spectroscopy Visual
Quantitative Measurement	Botanical Liquid Solid	Gas Chromatography Liquid Chromatography Ultraviolet Spectroscopy
Volume Measurement	Liquid	Balance Volumetric Glassware
Weight Measurement	Botanical Liquid Solid	Balance

Discipline: Toxicology		
Component/Parameter	Item	Key Equipment/Technology
Qualitative Determination	Ante-Mortem Biological Item Post-Mortem Biological Item	Gas Chromatography Immunoassay Liquid Chromatography Mass Spectrometry
Qualitative Determination (Volatiles)	Ante-Mortem Biological Item Post-Mortem Biological Item	Gas Chromatography Mass Spectrometry
Quantitative Measurement	Ante-Mortem Biological Item Post-Mortem Biological Item	Liquid Chromatography Mass Spectrometry
Quantitative Measurement (Volatiles)	Ante-Mortem Biological Item Post-Mortem Biological Item	Gas Chromatography

Mid-Hudson Satellite Crime Laboratory
224 Breunig Road
New Windsor, New York 12553 USA

Discipline: Seized Drugs		
Component/Parameter	Item	Key Equipment/Technology
Qualitative Determination	Botanical Liquid Solid	Chemical Gas Chromatography General Microscopy Infrared Spectroscopy Liquid Chromatography Mass Spectrometry Raman Spectroscopy Thin-Layer Chromatography Ultraviolet Spectroscopy Visual

Quantitative Measurement	Botanical Liquid Solid	Gas Chromatography Liquid Chromatography Ultraviolet Spectroscopy
Volume Measurement	Liquid	Balance Volumetric Glassware
Weight Measurement	Botanical Liquid Solid	Balance

Southern Tier Satellite Crime Laboratory
44 Park Street
Port Crane, New York 13833 USA

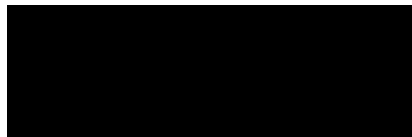
Discipline: Seized Drugs		
Component/Parameter	Item	Key Equipment/Technology
Qualitative Determination	Botanical Liquid Solid	Chemical Gas Chromatography General Microscopy Infrared Spectroscopy Liquid Chromatography Mass Spectrometry Raman Spectroscopy Thin-Layer Chromatography Ultraviolet Spectroscopy Visual
Quantitative Measurement	Botanical Liquid Solid	Gas Chromatography Liquid Chromatography Ultraviolet Spectroscopy
Volume Measurement	Liquid	Balance Volumetric Glassware
Weight Measurement	Botanical Liquid Solid	Balance

Western Satellite Crime Laboratory
722 Homer Street
Olean, New York 14760 USA

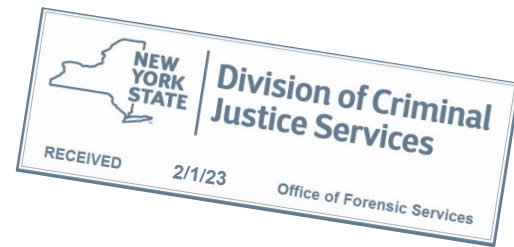
Discipline: Seized Drugs		
Component/Parameter	Item	Key Equipment/Technology
Qualitative Determination	Botanical Liquid Solid	Chemical Gas Chromatography General Microscopy Infrared Spectroscopy Liquid Chromatography

		Mass Spectrometry Raman Spectroscopy Thin-Layer Chromatography Ultraviolet Spectroscopy Visual
Quantitative Measurement	Botanical Liquid Solid	Gas Chromatography Liquid Chromatography Ultraviolet Spectroscopy
Volume Measurement	Liquid	Balance Volumetric Glassware
Weight Measurement	Botanical Liquid Solid	Balance

When published on a forensic service provider's Scope of Accreditation, ANAB has confirmed the competence required to develop and validate methods and perform on-going quality assurance for accredited activities. For a listed component/parameter, the forensic service provider may add or modify methods for activities without formal notice to ANAB for items and key equipment/technology listed. Contact the forensic service provider for information on the method utilized for accredited work.



Pamela L. Sale
Vice President, Forensics



New York State Police - Crime Laboratory

2023 - 17025T - Surveillance Document Review

Prepared by Lynn Langford

Data collected on 2023-01-01

ANSI National Accreditation Board

United States

Description

This assessment report summarizes the outcome of the recent accreditation activity. A separate document, the assessment plan, provides information on the type of activity (*e.g.*, reassessment, surveillance activity, scope extension), the date(s) of the activity, the assessment team members, the requirement documents and the scope by discipline that was assessed for each location. The assessment plan, together with this report, provides a complete picture of the accreditation activity.

The ANSI National Accreditation Board (ANAB) evaluated the competence of the forensic service provider and conformance with all applicable accreditation requirements for the scope of accreditation listed in the assessment plan. Objective evidence of implementation was assessed. The results of an assessment activity are based on a sample of records, locations, and personnel that were available at the time of the activity. Witnessing is an additional technique used in on-site activities.

REQUIREMENTS:

ISO/IEC 17025:2017 General requirements for the competence of testing and calibration laboratories & ANAB ISO/IEC 17025:2017 Forensic Science Testing and Calibration Laboratories Accreditation Requirements (AR 3125) evaluated over the accreditation cycle are summarized in the following broad categories:

General requirements related to the forensic service provider's commitment to impartiality and confidentiality in its activities.

Structural requirements related to the range of activities, management structure, the authority, roles and responsibilities of personnel. Documented procedures which ensure a consistent application of activities and the validity of results.

Resource requirements related to the impartiality of personnel. Requirements for a training program, competency testing, authorizations and ongoing monitoring to ensure the competence of personnel. Facility and security suitability for activities. Records and procedures for equipment to ensure proper functioning and where applicable, establishment of metrological traceability. Requirements for externally provided products and services.

Process requirements related to the handling of test and calibration items in a manner to maintain the integrity of the item. Requirements for chain-of-custody of items to be tested and appropriate methods and procedures. Ensuring the required performance of the methods along with monitoring the validity of the results. Requirements to ensure results are supported by sufficient technical records and are reported accurately, clearly, unambiguously and objectively. Procedures for nonconforming work and a documented process for handling complaints. Requirements related to the laboratory information management system protection and integrity of data and information.

Management system requirements related to policies and objectives appropriate for the scope of activities. Requirements to control internal and external documents and records. Requirements to address risks and opportunities and timely, well-documented corrective actions. Requirements for an internal audit program and management reviews.

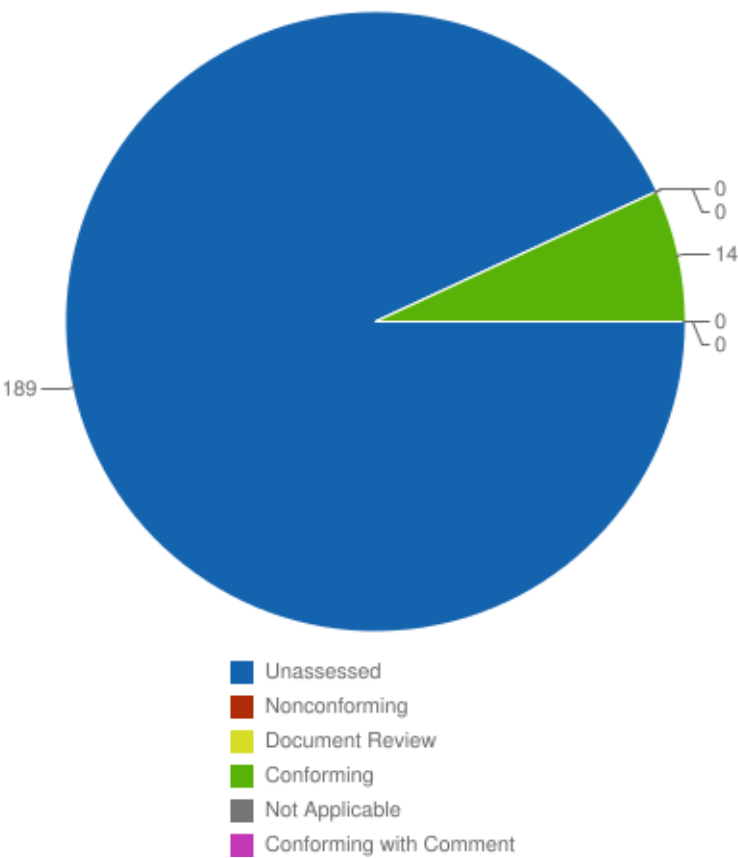
The accreditation activity also evaluates forensic science provider's conformance with their own management system requirements.

ASSESSMENT RESULT:

Based on the assessment techniques and sampling reviewed during the assessment activity, the assessment team found that the forensic service provider demonstrated competence to operate a management system that fulfills all applicable accreditation requirements, including those specified within their management system.

Any comments (opportunities for improvement) or nonconformities identified during this assessment activity are noted below. All nonconformities will be resolved prior to an accreditation decision by ANAB and a summary provided in a subsequent assessment activity report.

Summary of Comments



Audit Comments



Erie County Central Police Services - Forensic Laboratory

2023 - 17025T - Surveillance Document Review

Prepared by Deedra Hughes

Data collected on 2023-04-01

ANSI National Accreditation Board

United States

Description

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The ANSI National Accreditation Board (ANAB) evaluated the competence of the laboratory and conformance with all applicable accreditation requirements for the scope of accreditation referenced in the assessment plan. Objective evidence of implementation was assessed. The results of an assessment activity are based on a sample of records, locations, and personnel that were available at the time of the activity. Witnessing is an additional technique used in most activities.

REQUIREMENTS:

ISO/IEC 17025:2017 General requirements for the competence of testing and calibration laboratories & ANAB Accreditation Requirements for Forensic Testing and Calibration (AR 3125) evaluated over the accreditation cycle are summarized in the following broad categories:

General requirements related to the laboratory's commitment to impartiality and confidentiality in its activities.

Structural requirements related to the range of activities, management structure, the authority, roles and responsibilities of personnel. Documented procedures which ensure a consistent application of activities and the validity of results.

Resource requirements related to the impartiality of personnel. Requirements for a training program, competency testing, authorizations, and ongoing monitoring to ensure the competence of personnel. Facility and security suitability for activities. Records and procedures for equipment to ensure proper functioning and where applicable, establishment of metrological traceability. Requirements for externally provided products and services.

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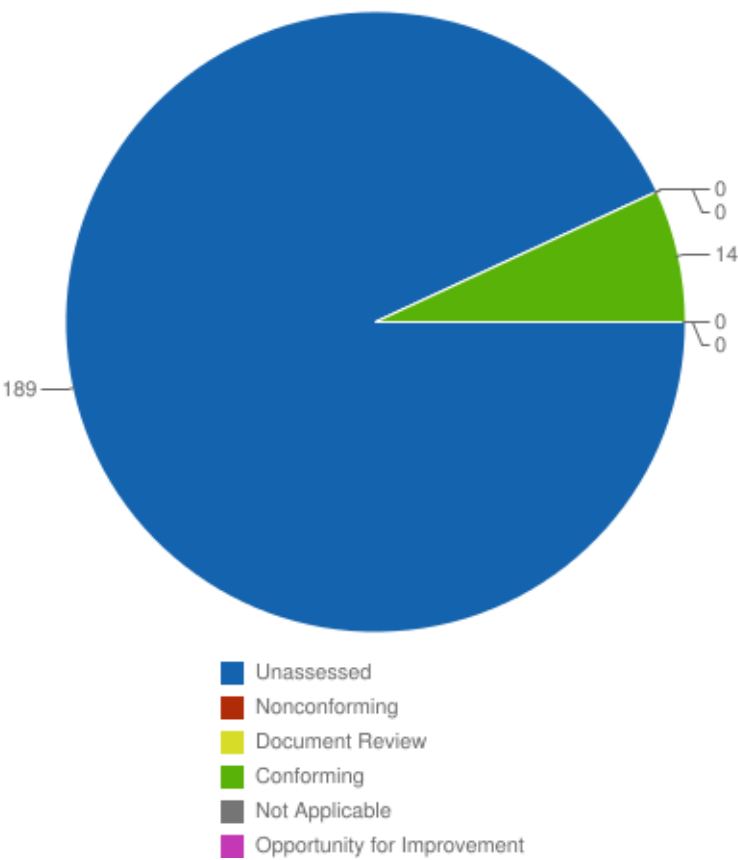
The accreditation activity also evaluates the laboratory's conformance with their own management system requirements.

ASSESSMENT RESULT:

Based on the assessment techniques and a sample of the objective evidence reviewed during the assessment activity, the assessment team found that the laboratory demonstrated competence to operate a management system that fulfills all applicable accreditation requirements, including those specified within their management system.

Any opportunities for improvement or nonconformities identified during this assessment activity are noted below. All nonconformities will be resolved prior to an accreditation decision by ANAB and a summary provided in a subsequent assessment activity report.

Summary of Comments



Audit Comments



**Division of Criminal
Justice Services**

RECEIVED

4/27/23

Office of Forensic Services



Monroe County Crime Laboratory
2023 - 17025T - Surveillance Document Review

Prepared by Lynn Langford

Data collected on 2023-04-01

ANSI National Accreditation Board

United States

Description

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REQUIREMENTS:

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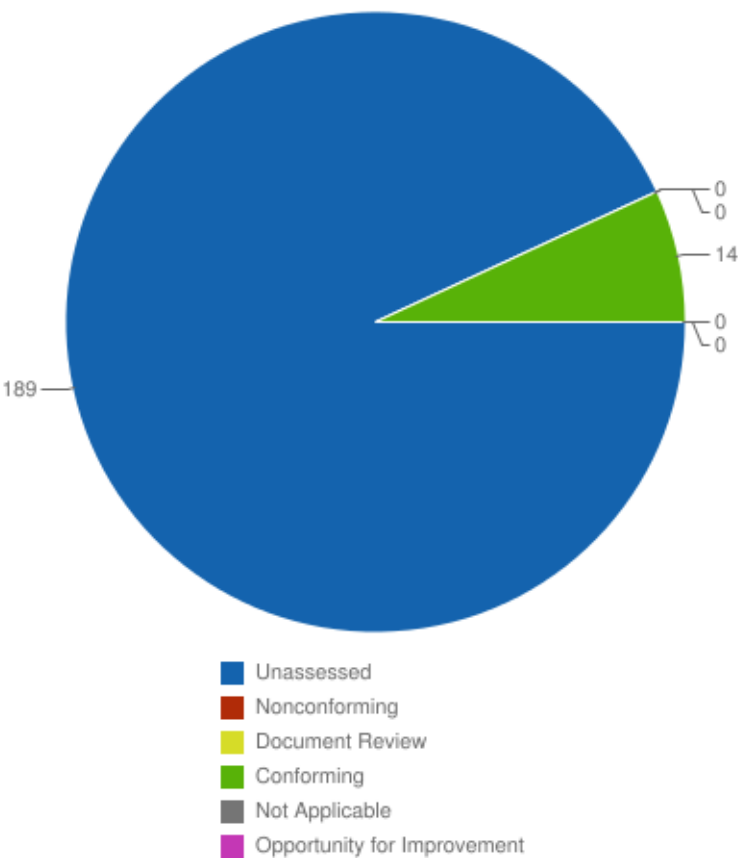
The accreditation activity also evaluates the laboratory's conformance with their own management system requirements.

ASSESSMENT RESULT:

Based on the assessment techniques and a sample of the objective evidence reviewed during the assessment activity, the assessment team found that the laboratory demonstrated competence to operate a management system that fulfills all applicable accreditation requirements, including those specified within their management system.

Any opportunities for improvement or nonconformities identified during this assessment activity are noted below. All nonconformities will be resolved prior to an accreditation decision by ANAB and a summary provided in a subsequent assessment activity report.

Summary of Comments



Audit Comments

PROCEDURES FOR MEMBER VIDEOCONFERENCING PURSUANT TO PUBLIC OFFICERS LAW § 103-a – “EXTRAORDINARY CIRCUMSTANCES”

In compliance with Public Officers Law (POL) §103-a(2)(a), the DNA Subcommittee, following a public hearing, authorized by resolution on XX, 2023, the use of videoconferencing as described in POL §103-a.

The following procedures are hereby established to satisfy the requirement of POL §103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. DNA Subcommittee members shall be physically present at any meeting of the DNA Subcommittee unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify the Chair of the DNA Subcommittee, or the Commissioner of the Division of Criminal Justice Services or his/her designee no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given.
4. If there is a quorum of members participating at a physical location(s) open to the public, the DNA Subcommittee may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum of the DNA Subcommittee but may participate and vote if there is a quorum of members at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to POL §105, the DNA Subcommittee shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including, but not limited to, any motions, proposals, resolutions, and any other matter formally discussed or voted upon.
6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL §103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.
7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used; (ii) where the public can view and/or participate in such meeting; (iii) where required documents and records will be posted or available; and (iv) the physical location(s) for the meeting where the public can attend.
8. The DNA Subcommittee, which may require and receive from the Division of Criminal Justice Services any assistance as may be necessary to enable the DNA Subcommittee carry out its duties and functions, shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted

or linked on the Division of Criminal Justice Services website (www.criminaljustice.ny.gov) within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.

9. If members of the DNA Subcommittee are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the DNA Subcommittee shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The DNA Subcommittee shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.

10. Open meetings of the DNA Subcommittee conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL §103-a shall be broadcast pursuant to the requirements of POL §103(f) and shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, "disability" shall have the meaning defined in Executive Law §292.

11. The in-person participation requirements of POL §103-a(2)(c) shall not apply during a state disaster emergency declared by the Governor pursuant to Executive Law §28 if the DNA Subcommittee determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the DNA Subcommittee to hold an in-person meeting.

12. The DNA Subcommittee may require and receive from the Division of Criminal Justice Services any assistance as may be necessary to enable the DNA Subcommittee carry out its duties and functions. These procedures shall be conspicuously posted on the Division of Criminal Justices website (www.criminaljustice.ny.gov).

Resolution No. _____
DNA Subcommittee

WHEREAS, pursuant to Executive Law §995-a, there is hereby created a Commission on Forensic science (Commission); and further, pursuant to Executive Law §995-b(13), the Commission established a subcommittee on forensic DNA laboratories and forensic DNA testing (DNA Subcommittee); and

WHEREAS, pursuant to Executive Law §995-b(5), the DNA Subcommittee may require and receive from any agency of the State, including the Division of Criminal Justice Services, any assistance as may be necessary to enable the DNA Subcommittee to carry out its duties and functions; and

WHEREAS, as a public body the DNA Subcommittee is subject to the Open Meetings Law requirements; and

WHEREAS, by passing Chapter 56 of the Laws of 2022 ("Chapter 56"), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the DNA Subcommittee to authorize its members to attend meetings by videoconferencing under extraordinary circumstances; and

WHEREAS, Section 103-a(2)(a) requires the DNA Subcommittee to adopt a resolution authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, Section 103-a(2) allows for hybrid meetings by requiring "that a minimum number of members are present to fulfill the public body's quorum requirement in the same physical location or locations where the public can attend"; and

WHEREAS, Section 103-a(2)(c) requires that members be physically present at any such meeting "unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting"; and

WHEREAS, in accordance with Section 103-a(2)(d), any members attending by videoconference must be "heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon"; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted to the Division of Criminal Justice Services website within five business days, and transcribed upon request; and

WHEREAS, pursuant to Section 103-a(2)(h), if videoconferencing is used to conduct a meeting, the DNA Subcommittee shall provide the opportunity for members of the public to view such meeting via video and to participate in proceedings via videoconference in real time where

public comment or participation is authorized, and shall ensure that videoconferencing authorizes the same public participation or testimony as in person participation or testimony.

WHEREAS, per the Committee on Open Government, public bodies are still permitted to conduct its meetings at multiple physical locations from which members of the body may participate if those locations are open to in-person public attendance, regardless of extraordinary circumstances. The intent of the amendments to the Open Meetings Law was to expand the authority of a public body to allow its members to participate in a meeting using videoconferencing under limited circumstances when the member's location is not open to in-person public attendance. It was not the intent to limit the existing authority to virtually connect multiple public locations from which members and the public may attend through the use of videoconferencing technology.

THEREFORE, BE IT RESOLVED, that the DNA Subcommittee authorizes its members who experience an extraordinary circumstance, as described above and further defined by any rules or written procedures later adopted, to attend meetings by videoconference: (i) as long as a quorum of the members attend in-person at one or more locations open to the public; (ii) as long as the member can be seen, heard, and identified while the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and

BE IT FURTHER RESOLVED, that the DNA Subcommittee shall create written procedures further governing its use of videoconferencing by its members in compliance with Chapter 56 of the Laws of 2022, which shall be incorporated into its by-laws.