September 3, 2014

Mr. John Neuner  
Executive Director  
ASCLD/LAB  
139 J Technology Drive  
Garner, North Carolina 27529

Dear Mr. Neuner:

The Scientific Working Group on DNA Analysis Methods (SWGDAM) appreciates the efforts of the American Society for Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) to provide clarification relating to accreditation requirement 5.10.1 from ISO/IEC 17025:2005 and 5.10.3.5 from the 2011 ASCLD/LAB –International Supplemental Requirements for Testing Laboratories, and applauds your consideration of the community’s feedback on that clarification. SWGDAM is also grateful for your recent designation of our group as an Interested Party for purposes of commenting on selected topics. In that spirit, SWGDAM respectfully submits the following comments for your consideration as ASCLD/LAB deliberates further clarification on this topic.

In keeping with ASCLD/LAB’s intent to “ensure that positive associations made by the laboratory are reported in such a way that the reader of the report is able to accurately evaluate the significance of the association,” it may be preferable for the individual forensic DNA laboratory to define in its protocols, the method for reporting positive associations in casework reports, including what constitutes an “intimate sample.” The laboratory’s protocol(s) would be subject to audit and assessment. SWGDAM appreciates that ASCLD/LAB has defined “intimate sample” to assist laboratories in determining a positive association, but application of this definition may not address the individual circumstances of cases analyzed by forensic laboratories. Thus, a workable alternative may be for the forensic laboratory to describe how it will report positive associations in a way that is meaningful for the reader. To address
similar issues, SWGDAM proposed revisions to Standard 11.2.6 of the FBI Director's *Quality Assurance Standards for Forensic DNA Testing Laboratories (Forensic QAS)*
to require a "quantitative or qualitative interpretive statement" in the forensic casework report.

More specifically, because each case is different, it may be difficult to define "intimate sample" in a way that accommodates all potential scenarios and items. For example, today's highly sensitive techniques have enabled forensic DNA laboratories to analyze evidentiary items where multiple contributors are likely to be present due to the nature and origin of the item (i.e. swab of door knob, steering wheel). These would not ordinarily be considered 'intimate items', and often produce complex DNA mixtures, with the genetic traits detected for the minor component(s) being the owner of the item, and the remaining traits potentially attributable to the putative perpetrator. Here as well, it may be more appropriate for the forensic laboratory to define "intimate sample." Such an approach was employed in the *Quality Assurance Standards* to distinguish evidence and work products in Standard 7.1.1 of the FBI Director's *Forensic QAS* with the requirement that "[t]he laboratory shall clearly define what constitutes evidence and what constitutes work product." Using this approach, a laboratory's definition of "intimate sample" in conjunction with *Forensic QAS* Standards 11.2.6 and 12.2.6\(^1\) should ensure that the results of tests are reported clearly, accurately and unambiguously in accordance with Requirements 5.10.1 from ISO/IEC 17025:2005 and 5.10.3.5 from the 2011 ASCLD/LAB-*International* Supplemental Requirements for Testing Laboratories.

Finally, the May 16\(^{th}\) clarification addresses DNA associations in particular by requiring that "statistical calculations for the results of each test in which a positive association is made must be clearly and properly qualified in the test report." Often

\(^{1}\) *Forensic QAS* Standard 12.2.6 provides that "[a] review of the final reports' content to verify that the results/conclusions are supported by the data. The report shall address each tested item or its probative fraction."
multiple stains from the same evidentiary item (i.e. bedding or clothing) are tested using DNA analysis, and the developed DNA profile from each stain may vary in the number of DNA loci providing a result. The SWGDAM Interpretation Guidelines for Autosomal STR Typing by Forensic DNA Testing Laboratories recognizes these circumstances in Section 4.1.1 and provides that “[t]he laboratory should establish guidelines where multiple stains from the same or separate items have provided genetic information that is consistent with originating from a common source(s) but having various levels of discrimination. In general, the statistics for the typing results that provide the most genetic information and/or highest discrimination potential are reported.” Thus, for these instances, we hope that compliance with the SWGDAM Interpretation Guidelines would satisfy this further clarification.

We acknowledge ASCLD/LAB’s efforts to provide clarification to the forensic DNA community and hope these comments are of assistance as ASCLD/LAB considers further clarification on this topic. If you have any questions concerning these comments or need additional information, please feel free to contact me at (703) 632-7489 or Anthony.Onorato@ic.fbi.gov.