THE AUSTIN CHRONICLE
austinchronicle.com

News: September 18, 2009

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Forensics Under Fire

By Jordan Smith

There has been much nail-biting in courthouse crowds across the country since the February release of the **National Academy of Sciences** report on the state of forensic science. The report, to put it mildly, was not flattering. Forensic labs are underfunded, and many of the areas in which forensic scientists toil – including handwriting, ballistics, and fingerprint analysis, just to name a few – are unsupported by rigorous empirical scientific testing, the report concluded. Of existing "forensic methods, only nuclear DNA analysis has been rigorously shown to have the capacity to consistently, and with a high degree of certainty, demonstrate a connection between an evidentiary sample and a specific individual or source," reads the report.

That conclusion has, frankly, freaked out a lot of folks – including many prosecutors who are often the "end consumers" of forensic science, as **Matthew Redle**, Wyoming state director of the **National District Attorneys Association**, recently put it. In an effort to figure out what should be done, now that the forensic cat has been let out of the bag, Vermont Sen. **Patrick Leahy**, the Democratic chair of the Senate Judiciary Committee, convened a hearing Sept. 9 to discuss with experts how to proceed. "Much important work is done through forensics," but that is certainly not always so, Leahy noted, singling out Texas' execution of **Cameron Todd Willingham** for an arson-murder based on junk fire science as a disturbing recent example.

Redle, who is also an elected prosecutor in Wyoming, was measured in his response: Certainly, forensic labs need better funding and should be accredited, lab scientists should be certified, and forensics work should should be guided by a "peer reviewed research agenda" – all recommendations made in the NAS report. But Redle does not believe forensics labs should be divorced from law enforcement agencies, wherein some 80% of labs are housed. Labs should be "independent" of any undue influence, but to separate them would be far too costly without really producing any benefit, he said. Also making an appearance at the committee was Houston Police Chief **Harold Hurtt**, who knows a thing or two about police department-housed crime labs. He said that $5.3 million in investigation costs later, the Houston Police Department crime lab is on the mend. Part of the problem that led to the HPD lab meltdown was the "limited scientific knowledge of prosecutors, defense attorneys, and judges," he said. "In instances where there was scientific fraud or sloppy work, they did not have the knowledge to identify it."

Where Redle was measured, fellow prosecutor **Barry Matson**, deputy director of the Alabama District Attorney's Association, was practically unhinged in his comments to the committee, implying that there was some sort of agenda behind the NAS recommendations – not a single prosecutor was a member of the NAS Committee on Forensic Sciences, he noted. That was a major slight, he said, since it is the prosecutor alone who is "charged with the responsibility of seeking justice." Indeed, he said, prosecutors do more to free the innocent and protect individual liberty than "any defense project or academician will accomplish in a career."

Others had more concrete suggestions – including law professor **Paul Giannelli**, who also holds a master's degree in forensic science and who has made the topic his research specialty. Giannelli said that forensics are "often superior" to other kinds of proof – like eyewitness identification, which has been implicated in a vast majority of wrongful convictions. Still, forensics also create problems, he said, because of the lack of empirical research in most forensic fields. "The need for a new approach – one rooted in science – as outlined in the [NAS report], is critical," Giannelli said. The report recommendations, "if adopted, would benefit law enforcement and prosecutors in the long run. It would allow forensic science to develop a strong scientific basis and limit evidentiary challenges regarding the reliability of forensic evidence."
