



B76 Independent Analysis of Physical Evidence in Criminal Cases—A Defense Perspective

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After attending this presentation, attendees will understand why it is prudent for the defense to review and/or reanalyze the physical evidence in criminal cases.

This presentation will reinforce the need for independent examination of evidence on behalf of the defense. This is not intended to be an indictment of law enforcement crime laboratories, law enforcement personnel or anyone else, but just serves to show the value of getting a second opinion in any serious matter where life, death or personal freedom are at stake and human error could be involved.

This presentation will provide the high lights of two shooting incidents in which an independent reconstruction of each of the shootings

yielded information of significance to the defense effort. These cases illustrate that there can be aspects that support the defense theory that can be over-looked by the original examiner. Honest mistakes and misinterpretations can also happen such that what appear to be “slam dunks” for one particular theory may not necessarily be so.

Case 1: The first case involves a woman accused of having shot her boyfriend as he sat across from her on a sofa-bed in a camper trailer. The decedent had a near contact shot to the right forehead that exited behind his right ear. The exiting bullet then passed through a partition at the end of the sofa-bed, struck the side of the range that was behind it and fell to the floor where the bullet was recovered.

The account of the shooting given to police by the woman had the decedent on the floor of the camper and under a table with him shooting himself. From this position, the bullet would have had to be traveling upward when it struck the partition.

The crime scene investigators focused on the fact that the exit hole in the partition was lower than the entry hole, indicating a downward trajectory. This, of course, was at odds with the defendant's version of events. They further pointed out that bloodstains were on the curtain behind the sofa-bed and on top of the sofa-bed and that these too were inconsistent with the decedent being down on the floor.

An independent examination/reconstruction was carried out in which it was learned that the bullet actually was deflected after entering the partition, thus giving the appearance of a downward trajectory when the true trajectory was upward. It was also learned that the bloodstains on the sofa-bed resulted from paramedics placing the decedent's bloody shirt there while attending to him.

A bloodstain on the wall down at the floor was clearly back spatter from the gunshot. This, along with the trajectory determination, resulted in charges against the woman being dropped.

Case 2: The second case involves a man accused of intentionally firing a rifle directly into a crowd, striking and killing a young girl. The girl was struck in the forehead by the bullet, a 7.62 x 39 steel post Chinese round that did not exit her skull.

The defendant's version of events was that he fired only warning shots into the ground and that he never fired directly at the little girl. Although there were a number of apparent bullet strikes in the ground at the scene, the prosecution pointed out that a bullet hole in a window screen behind the victim's position indicated direct fire.

In reexamining the evidence, it was noted that the bullet that was recovered from the victim had a flattened side. Autopsy photographs showed a large, irregular entrance wound in the child's forehead.

A reconstruction of the shooting indicated that a ricochet was probable. The bullet condition, the entry wound appearance, and the failure of the bullet to exit the victim's head in spite of being a steel post bullet were all consistent with a ricochet. Based upon this evidence, the defendant was convicted of a lesser charge.

Shooting Reconstruction, Re-analysis, Physical Evidence