



## Criminalistics Section – 2004

### **B78 Public Employee by Day, Private Consultant by Night**

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After attending this presentation, attendees will learn about publicly employed forensic scientists who are also private forensic science consultants during non-public hours.

This presentation will impact the forensic community and/or humanity by demonstrating encouraging more actively working forensic scientists to become private forensic science consultants during their offhours. By having a pool of these types of consultants, it will ensure that evidence is always accurately and objectively reported and it will limit the number of illegitimate “experts” who testify at trials.

Many publicly employed forensic scientists find themselves usually called to court to testify on behalf on the prosecution. This is because any exonerating or inconclusive evidence is presented prior to the trial and the suspect's case never goes to trial. Rarely does the publicly employed forensic scientist testify on behalf of the defense. This is usually reserved for retired public employees, public employees who can work private cases, privately employed forensic scientists, university professors, legitimate expert witnesses, and illegitimate “expert” witnesses.

This paper will examine the public employee who works private cases during non-public work hours. It will show how and why public employees become private consultants and it will discuss advantages and disadvantages of this practice. It will also cover the impressions of those who might find that their opinions are directly at odds with the testifying private consultant. Several case examples will also be discussed.

Most public employees stumble upon private casework, because, in some cases, they are the only qualified individuals in the area with access to the needed resources. The private casework usually begins by contact from a private investigator who is interested in having a forensic science examination conducted on a private or civil case. In most cases, depending on the nature of the examination, the public employee must get permission from their agency prior to accepting the case, especially if it involves using public equipment or reagents. Some agencies might allow full use of the facilities, while others might not allow the public employee to use any equipment for personal financial gain. Some agencies have a double standard, allowing vehicles and equipment to be used for private security details, but not allowing the public employee to use laboratory facilities. In some cases, public ethic boards must review the request by the public employee to assure that no conflicts of interest occur. In other types of cases and as the public employee's reputation grows, the public employee might be asked to review paperwork, photographs, and other documentation for attorneys involved in a case. Typically, with these cases, no special resources are needed and the examination can occur in the non-public working hours. Even with these cases, the public employee must be sure that the private casework doesn't conflict with the public casework.

There are several advantages to this practice. One advantage is that it provides a source of supplemental income. Another advantage is that it can provide a second opinion or interpretation of the case evidence. This ensures that all interpretations of the evidence are presented to the court. It also provides the expert with exposure to proceedings in a variety of jurisdictions. This will make the forensic scientist more wellrounded and might also provide him or her with new ideas and approaches to cases. Having an expert available for the defendant at trial also means fewer appeals if the defendant is found guilty. Another advantage is that a publicly employed forensic scientist can also make a fair evaluation of the evidence and analytical results based upon the prevailing forensic science standards and criteria.

There also several disadvantages to this practice. One disadvantage is that there can be a variation in the submission of cases resulting in a “feast or famine” case flow. Possible conflicts of interest can occur when handling private cases. There is also the danger of the expert developing a “hired gun” reputation, especially among his or her forensic science peers. This is why the expert must always maintain objectivity when reporting results and testifying in court. The public employee must never compromise their public duties or it could result in the loss of public employment. By establishing criteria and working with their public agency, the public employee/private consultant can minimize the disadvantages and maximize the advantages.

Public employees make very good private consultants. This is because they are experienced and they are usually current in the latest available, practical technologies. They are also actively analyzing evidence and they are aware of the latest quality assurance standards in the field. As a result, they cannot hold someone else to an unrealistic standard of work. Provided the proper restraint and safeguards are taken, a public employee can become a successful and respected private forensic science consultant.

### **Public Employee, Forensic Scientist, Private Consultant**