



### **E11 Anatomy of a Crime Lab: How Even a Lawyer Can Investigate the Reliability of Test Results**

*Christine Funk, JD\*, and Lauri Traub, JD\*, 919 Vermillion St, Ste 200, Hastings, MN 55033*

After attending this presentation, attendees will understand basic tools with which to arm themselves when investigating the reliability of forensic science intended to be offered in court.

This presentation will impact the forensic science community by demonstrating the importance of investigating the conclusions provided to lawyers by forensic scientists. It will provide prosecutors and defense attorneys with a basic road map to face the challenge of assuring foundational reliability of evidence offered in court.

In the spring of 2012, a lawyer with an undergraduate degree in business administration sought to learn more about the test results offered by the Saint Paul Police Department Crime Lab in a case involving drug chemistry. With the assistance of a lawyer with a Bachelor of Arts in Social Work, a request for the underlying file was made. Reviewing the file, much of it made no sense whatsoever. An appointment was made to meet with the analyst to review the file. At the time the appointment was made with the analyst, the lawyers expected nothing more than to have the science of drug testing and the contents of the testing file explained to them. The thought that something was very wrong in the St. Paul Police Department Crime Lab never entered their minds. The attorneys notified the prosecutor of the meeting as a professional courtesy. The meeting with the lab analyst lasted a little more than an hour and was memorialized in notes taken by the prosecutor.

In very short order, questions about the file were raised – including issues of record keeping, the lack of the use of blanks, deviations from protocols, and the absence of validation studies.

The lawyers left the meeting with more questions than answers. Using SWGDRUG minimum guidelines, the lawyers returned to the lab. In a meeting with the lab director, the lawyers became more alarmed. The lab director had taken the position that SWGDRUG guidelines were just that, guidelines, and therefore they did not have to follow them.

Armed with this information, a meeting was scheduled with a local expert. His response? “This is Houston all over again.” He agreed to work on the case and spent countless hours teaching two attorneys the science of drug testing.

This presentation will include an overview of the history of this and other crime lab failures. Some of the fault can be laid at the feet of crime labs operating outside generally accepted practices; however, some of the fault must also be ascribed to the judges tasked as gatekeepers, prosecutors who for years introduced reports without question, and defense attorneys who lacked the time, knowledge or motivation to investigate.

Determining what witnesses should be called, what documents should be introduced, how to work with your experts to learn the science and effectively cross-examine the witnesses and what testimony should be sought in a hearing to challenge the admissibility of evidence will also be explored.

**Frye-Mack, Drug Testing, St. Paul Crime Lab**