



E37 Minnesota Trial Team: Public Defenses' Responses to State-Sponsored Forensic Science

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After attending this presentation, attendees will recognize that, within the national criminal justice system, the forensic education of lawyers in public defense is generally behind that of their counterparts in law enforcement and prosecution. Attendees will also recognize that because of this realized gap in forensic education, Minnesota's public defense system embarked on a rather novel approach in dealing with its unique lack of forensic knowledge and education of its public defense lawyers.

This presentation will impact the forensic science community by showing that the development of a concept, such as Minnesota's Trial Team, can significantly "level the playing field" for indigent criminal defendants when there is a state prosecution that contains significant forensic evidence generated by state-sponsored forensic laboratories. The forensic community will further understand that, with the creation of such entities, it enables the public defense lawyer to challenge the forensic scientist's testing methods, the results, the interpretations and, in some instances, even the very validity of certain forensic evidence being brought forth in today's criminal courts. The forensic community will ultimately understand that the criminal justice system is best served by both the state and defense having the ability to intelligently present, and question, significant forensic evidence presented at a trial.

In the years leading up to 2006, the Minnesota State Public Defender recognized that major felony trials in Minnesota were becoming increasingly involved with complex forensic issues and evidence. This was not only occurring within the major metropolitan area of Minneapolis and St. Paul, but more importantly in rural, Greater Minnesota. The Minnesota Public Defender system in greater Minnesota is manned by part-time personal that also have private practices. At the time, county attorneys representing small counties would routinely seek assistance from the Minnesota Attorney General's Criminal Division, and the accompanying forensic labs, for assistance in these complex, forensic cases. The part-time public defender did not have any like resource, nor experience, to draw upon concerning forensic trial issues.

In order to address this need, the State Public Defender created the "Trial Team." The Trial Team is comprised of five lawyers that have an over-all mission of providing high-quality, cost-effective assistance for trial representation in major felony cases that involved forensic evidence as well as to train other assistant public defenders in the understanding and use of forensic evidence. These lawyers are all trained in the science of DNA, and continue to update that training through the Minnesota Public Defender Advanced DNA Institute. They have also selected other forensic areas in which to become well versed in order to further their basic mission. These additional areas include arson, gunshot residue, psychiatry, pediatric forensics, fingerprints, ballistics, eyewitness identification, blood spatter and digital/electronic evidence.

With the advent of the National Academy of Sciences Report in 2009, the Trial Team's mission of statewide forensic education, support and assistance to local public defenders became more critical in order to adequately represent indigent clients. When requested by local co-counsel, this has meant that, with support of the Trial Team, local public defenders are now looking closer at the forensic evidence produced by local police and other state sponsored forensic laboratories on a pre-trial level. The Trial Team provides its specialized forensic knowledge, and litigation support as co-counsel, to local public defenders for the purpose of litigating those *Frye-Mack* challenges to questionable forensic evidence once considered above such challenges (fingerprints, handwriting analysis, ballistics, gunshot residue and shaken baby syndrome to name a few), to file other similar motions and to assist in the client's trial.

The National Academy of Sciences Report of 2009, the ongoing *Frye-Mack* challenges supported by the Trial Team and those public defenders trained or co-counseled by Trial Team members have led, in part, to the Minnesota Supreme Court advising the State District Courts that *Frye-Mack* challenges should be allowed in all cases with forensic evidence, even forensic evidence long-permitted by Minnesota Courts¹

Reference:

¹. *State v. Hull*, 788 N.W.2d 91 (Minn. 2010); *State v. Ferguson*, __ N.W.2d __ 2001 WL 4949998 (Minn. October 19, 2011).

Trial Team, Forensic Evidence, DNA