



Jurisprudence Section - 2014

E16 Lessons Learned From Inside the Forensic Laboratory

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The goal of this presentation is to offer practicing lawyers insights about the inner workings of a forensic lab from the perspective of a former public defender, now General Counsel at the District of Columbia Department of Forensic Sciences.

This presentation will impact the forensic science community by bringing to the table the real experiences developing, growing, and changing as a forensic community as it strives to maintain independence as required by statute.

In October of 2012, the Department of Forensic Sciences opened in Washington, DC. The Department of Forensic Sciences houses forensics including DNA, firearms, fingerprints, and digital; public health; and crime scene sciences. By statute, the Department of Forensic Sciences is mandated to be an independent laboratory. Some parts of independence are included in the statute, such as the requirement of including two copies of discovery when discovery is requested, so that both sides have identical and equal access. A board of stakeholders, including the U.S. Attorney and the Director of Public Defense Services, is established. Likewise, a Scientific Advisory Board is established by statute, and approved by the District of Columbia's City Council.

But other parts of "independence" haven't been so easy. Who is "they?" Are police still "us?" What do we do when a prosecutor insists on testing items that have no forensic significance "so I can tell the jury we tested it?" How do we word reports? What value do we place on types of cases? How do we deal with contrary views of the value of evidence between police, prosecutors and the lab? When a defense expert wishes to observe testing, what level of vetting, if any, is appropriate?

The Department of Forensic Sciences took two unusual steps in establishing the Directorate at the lab. First, the Director decided that in-house counsel would better embody the Department of Forensic Sciences' mandate for independence than a part-time attorney on call from the Attorney General's Office. Second, the Director hired an attorney with 18 years' experience — as a public defender. Benefits include a more realistic experience in moot court exercises, but also has sparked some interesting discussions such as the ones outlined above.

This presentation seeks to offer insights into how a having a lawyer in the crime lab can assist labs seeking to move toward independence. Additionally, it is hoped that this will open discussions between scientists and lawyers, seeking ways to improve the science — and the lawyering — that occurs in forensic science cases.

Independence, Forensics Laboratory, Lawyer