



B47 A Forensic Odyssey: When Doing the Right Thing Doesn't Always Lead to the Desired Result or Good Deeds Can Be Punished!

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After attending this presentation, attendees will better understand unintended consequences of ethical conduct in a crime lab setting.

This presentation will impact the forensic science community by providing attendees with a possible reaction when an employee stands up to do what is right and faces the consequences. It will also suggest ways to both act and to not be punished for reporting the deed.

In the early 1990s, it was determined that a drug chemist was “dry-labbing” drug testing results in the laboratory. The criminalist would run an analysis at the start of her shift and subsequently select cases that contained the same drug as determined by a presumptive test run by officers. She then used the same Infrared (IR) spectrum for each subsequent analysis but changed the annotation on the printout to correspond to each case she reported out. She ultimately claimed that she followed procedure and ran each case separately; however, running IR spectra ½ minute apart seemed to belie that explanation.

The analyst's supervisor discovered the ruse. He happened to have her day's work piled on his desk with each of the IR spectra visible. He was surprised to see how closely they matched up and, out of curiosity, held the printed spectra over a light box. They all registered identically. The analyst's supervisor immediately proceeded with his direct supervisor to discuss what he had discovered with the laboratory director.

Knowing this might become a criminal matter, laboratory management went to the sheriff's department's Internal Affairs Bureau to report the matter and did not interview the employee. The employee was relieved of duty, with pay, and ordered to remain at home during the investigation. The matter was referred to the district attorney's office for further investigation and possible prosecution. The employee, who had an MS degree in chemistry, claimed that she had not been properly trained on the lab equipment. Eventually the district attorney decided not to prosecute (they thought the matter was too arcane and a jury would not understand the issues). The analyst was subsequently discharged from the sheriff's department.

Once laboratory management determined that this situation existed, the evidence from all cases the analyst had examined was ordered back and a neighboring crime laboratory was asked to reexamine the cases. At the same time, laboratory management also recalled a sampling of other criminalists' drug testing cases. All reported results, without exception, turned out to be correct.

The laboratory reported the incident and the remediation to their accrediting body, the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB). In addition, the district attorney's office notified the local defense bar of the matter. At the conclusion of this, the manager felt the laboratory had done the right thing and the matter had sorted itself out.

To much surprise, a department investigation was ordered and the manager's behavior became its focus. The theory was that this whole thing should never have happened if the manager had been more attentive. After months of interviews with every employee at the lab and an Internal Affairs investigation with the manager as the subject, he was found wanting and demoted. The sheriff's department allowed the manager to keep his job title and salary; however, the manager now reported to a captain who was the defacto crime lab director, with the manager as the figurehead. The manager was also given ten days leave without pay. In addition, the manager was told that if he chose to fight these sanctions, he would be terminated. He decided to take his punishment. Naturally, the manager was pretty depressed over the whole business. The depression took him five years to get over!

The lessons the manager learned from this incident were: (1) if you honestly feel you are in the “right,” you should fight back and use all the remedies at your disposal, including hiring a lawyer to represent you and, if necessary, civil litigation; (2) keep detailed records of everything leading up to the event and, for that matter, all you do as a manager or supervisor. Remember the admonition: if it's not in writing, it never happened; (3) be wary about being a civilian in a police environment. The manager's experience was that civilians were treated differently. He saw this firsthand a few years later when one of the lab's firearms examiners failed a proficiency test. Initially the laboratory recalled some of the firearms examiner's work and found other mistakes. Ultimately, the laboratory had to



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review some 200 of the firearms examiner's cases, mostly homicides. The captain in charge of the lab at the time was never chastised in the slightest for this event that occurred on his watch; (4) there is an unfortunate tendency to sometimes "throw someone under the bus" as penance for an act. A word to the wise: make sure it's not you!; and, (5) if it happened again, the he would still do the right thing and report the misdeed as he did.

Ethics, Whistle Blowing, Ethical Payback