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## **FORENSIC SCIENCE: The Need for Reform**

Forensic DNA analysis was first used in a criminal case in the United States in 1987 and triggered a revolution in the criminal justice system from which we are still adapting and evolving.

243. That's how many wrongfully convicted people have been proven innocent by forensic DNA since 1990. The research shows that faulty or fraudulent forensic science was involved in 52% of the wrongful convictions. The research has shown that there are problems in the nation's crime labs, operated or dominated by law enforcement.

Another lesson learned is that we can no longer blindly trust the various "forensic identification" disciplines, such as analysis of fingerprints, shoeprints, tire treadmarks, bitemarks, hair analysis, and toolmark and firearm examination. These disciplines were developed by law enforcement, for law enforcement, under the supervision and monitoring of law enforcement. As readily admitted by their proponents, the disciplines result in completely subjective determinations, made without any standards or scientific measure. "I know it when I see it." As subjective in nature, the examinations are highly susceptible to bias in an environment - a law enforcement crime lab, highly susceptible to biased influences - with a history to prove it.

In response to the lessons learned from the advances in forensic DNA technologies, Congress directed the National Academy of Sciences to undertake a study of the current state of forensic science. The National Academy of Sciences called upon its research arm, the National Research Council, to conduct a study and report back. The NRC gathered many well-respected judges, legal scholars, scientists, professors, and others who held meetings and took testimony over the course of 2007 and 2008.

This past June, the committee's report "*STRENGTHENING FORENSIC SCIENCE IN THE UNITED STATES: A PATH FORWARD*" was published. The Report made 12 recommendations, including the following:

**To improve the scientific bases of forensic science examinations and to maximize independence from or autonomy within the law enforcement community, Congress should authorize and appropriate incentive funds to the National Institute of Forensic Science (NIFS) for allocation to state and local jurisdictions for the purpose of removing all public forensic laboratories and facilities from the administrative control of law enforcement agencies or prosecutors'**

The scholars and scientists who authored the NAS Report are well-intentioned. After months of research and study, they expressed legitimate concerns about the quality of the science that is being utilized to obtain convictions in court.

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Opponents of such suggestions for reform include law enforcement, prosecutors, and forensic scientists themselves, the people whose methods are being scrutinized. Generally, the response to the criticism of these forensic disciplines has been “Everything’s just fine. Trust us. It’s “scientific” enough. We know it when we see it. Stop asking these questions.” There is no doubt that if police, prosecutors, and forensic science practitioners were polled, they would see no need for reform or independent oversight of what they do.

It is not surprising that these practitioners are proponents of their discipline. Unfortunately, the forensic crime lab component of law enforcement, wrapped in the aura of science, has detoured around the need for real scientific rigor and scrutiny. We know the lack of scientific validity in the “identification” disciplines, coupled with unsupported claims of “individualization” and “matches” has resulted in wrongful convictions. Outright fraud within the labs has been condoned, ignored, and rarely disciplined, likewise resulting in wrongful convictions.

The proposed reforms highlight the need for independent oversight of the crime labs. In Washington, the composition of the current oversight agency, the Forensic Investigation Council, should change to really fulfill the role of independent, external crime lab oversight. While including law enforcement, forensic scientists and forensic discipline practitioners, for oversight purposes, the council must also necessarily include independent, critical perspectives. An oversight agency should include scientists from academia or the private sector in the relevant fields. It should also include representatives from the judiciary, prosecutors, and defense attorneys as these are the people involved in the application of forensic science in the courtroom.

Forensic DNA continues to improve the criminal justice system in ways that were not foreseen. The recent NAS report has built on the lessons learned from forensic DNA in hopes of moving forward and improving the use of science within the criminal justice system. Among the recommendations in the report is the need to have forensic laboratories that are independent from, and not beholden to, law enforcement. To the same end, quality assurance measures, including laboratory oversight must be independent from, and uninfluenced by, law enforcement.