

Victor W. Weedn, MD, JD
Professor
George Washington University
Department of Forensic Sciences

March 28, 2017

To Examine the State of Forensic Science in the United States

U.S. House of Representatives

Judiciary Committee

Subcommittee on Crime, Terrorism, Homeland Security, and Investigations

3:00 pm

RHOB 2141

Good afternoon and thank you for the opportunity to address the Committee on this important topic.

Forensic science has become critical to our criminal justice system. This has been a relatively recent development; governments and the criminal justice system are still reacting to it. However, the voice of the forensic science community is not commensurate with this new role and accordingly the forensic sciences have been relatively neglected and inadequately supported.

A 2009 National Academies of Sciences report on the forensic sciences criticized the practice of forensic science in the United States and recommended enhanced standards-setting efforts, increased research and development to ensure adequate scientific foundations, and autonomy within law enforcement agencies.

Many publicly funded crime laboratories have transitioned to increasing autonomy from law enforcement through international accreditation requirements that avoid the hazards of significant expense and other local considerations while laboratories outside of law enforcement have not necessarily shown an advantage. Within the Department of Justice, there are both statutory and Department regulations that provide independence for scientific endeavors.

To address the standards, the Department of Justice (DOJ) reached out to the National Institute of Science and Technology (NIST) and transferred the standards setting activities from DOJ scientific working groups to establish the NIST Organization of Scientific Area Committees (OSAC), which is effectively advancing and recommending standards in the field. However, the OSAC is not codified and does not have a permanent funding stream therefore its future is in question without a permanent structure and funding being embedded in a statute. As we experienced with the scientific working groups, only the DNA working group was congressionally established and funded, and it is the only one that survives today.

On the other hand, research and development has not kept pace with other advancing sciences. Recently, the President's Council of Advisors on Science and Technology (PCAST) criticized the scientific foundations of pattern impression evidence. While the scientific efficacy of the PCAST report is debatable, the report is absolutely correct on the need for additional research to enhance current forensic science capabilities and instill confidence in current methodologies.

Furthermore, forensic science currently practiced is stressed and inadequately supported. The Bureau of Justice Statistics latest census of publicly-funded crime laboratories reports significant casework backlogs. Important discussions on DNA mixture deconvolution, statistical interpretation, and language for reporting and testimony need federal attention. Presently, the only grant available that exists for addressing some of these issues is Paul Coverdell, which you recently re-authorized in JFAA.

While detailed to DOJ as the Senior Advisor to the Deputy Attorney General, it became clear to me that the creation of an outwardly-facing grant-making Office of Forensic Sciences (OFS) from a consolidation of existing programs within the DOJ, given an elevated position within the DOJ structure, and with an

advisory board from leaders in the forensic science community outside DOJ, would be an important step to correct many of these concerns.

The currently existing unit within DOJ that most closely resembles this activity is the *Office of Investigative and Forensic Sciences* (OIFS) buried within the *Office of Justice Programs* (OJP) in the *National Institute of Justice* (NIJ), the research, development, and evaluation arm of DOJ.

NIJ's mission statement does not specifically mention forensic science. NIJ began primarily as a social science research institution, largely catering to academic departments of criminology. Under the original 1968 NILCECJ legislation, NIJ was authorized "to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime, and to evaluate the effectiveness of correctional procedures." The *Division of Science and Technology*, was created in 1992 with a budget of between \$2 and \$4 million annually and a staff of four. By 1994, an *Office of Science and Technology* (OST) represented 18% of NIJ's overall budget and by 2008; the budget for OST represented more than 80% of NIJ's overall budget, while the social science research budget stagnated. Thus, NIJ was created and continues as a social sciences shop, but the hard forensic science component has grown so fast that the social scientist directors of NIJ often feel compelled to hold forensic science down so that it will not consume their social science budget. Social science and forensic science should not compete within the same division headed by a social scientist. The OFS Director should be a forensic scientist with stature in the field, while NIJ should continue as a social science shop with a social scientist director.

Such an office would provide a voice for forensic science appropriate to its new role and would provide a vehicle for support to the State and local community that performs >95% of the forensic science testing in the United States. I have provided to the Committee documents that I wrote regarding how this could occur.

Thank you for this opportunity to address the Committee on such important matters..