

PETER NEUFELD
ANSWER IN RESPONSE TO SENATOR AMY KLOBUCHAR
QUESTIONS FOR THE RECORD
SENATE JUDICIARY COMMITTEE HEARING ON
“IMPROVING FORENSIC SCIENCE IN THE CRIMINAL JUSTICE SYSTEM”

Question for Peter Neufeld

Many people in the criminal justice system have identified what has come to be known as the “CSI effect”—that is, where jurors expect sophisticated scientific evidence because that is what they have seen on TV shows like CSI.

I know from my time as a prosecutor that forensic evidence is not available in many run-of-the-mill cases. These cases—such as auto theft or assault cases—often do not yield any forensic evidence. Can you comment on this? Is there a way to counter the unrealistic expectations that juries may have developed in recent years?

ANSWER:

Your questions reveal two serious challenges that prosecutors face – ones that we are sensitive to given our work helping them convict the real perpetrators of crime post-exoneration. First, when no forensic evidence is available, prosecutors need to explain to skeptical juries that unlike what they see on *CSI*, forensic evidence is not present in all cases. Second, when forensic evidence is present, prosecutors must deal with television programs that wildly exaggerate and glorify forensic science, and thereby create unrealistic expectations among jury panels. While little can be done when forensic evidence is unavailable (although we have learned anecdotally that prosecutors can effectively make this point to jurors), we believe that prosecutors would greatly benefit from the public having increased confidence in the reliability and accuracy of forensic science. Nationally-accepted standards, which quantify the probative value of specific forensic techniques, will eliminate any misconceptions and doubts about (and unfounded assurance in) the reliability of forensics among juries.

Since the police officers, lawyers and judges who are tasked to adjudicate these cases are very rarely forensic specialists themselves, properly understanding forensic scientific evidence presents a challenge that demands a fix before scientific evidence reaches the courtroom. Before the evidence is presented to the courts – or even before police use such testing for determining the course of their investigations – the scientific method should be applied to each forensic assay or technology and parameters for report writing and proper testimony should be established.

In Minnesota, the shuttering of the St. Paul Police Department Crime Laboratory’s drug unit illustrates the consequences of not having national science-based standards. Without national standards as a basis for testing and reporting, the problems in St. Paul have thrown thousands of drug cases into question¹ and strained the limited resources of the

¹ MPR.org, *Prosecutor offers plea deals due to crime lab questions*, available at <http://minnesota.publicradio.org/display/web/2012/07/31/news/stpaul-crime-lab-convictions-in-question/> (last accessed, 8/2/2012).

State.² Science-based forensic standards will allow law enforcement to effectively use forensic tools and will prevent attorneys from introducing faulty expert testimony, while still encouraging attorneys and law enforcement to advocate for victims. Additionally, they will strengthen criminal prosecutions, protect the victims, and decisively enhance the evidentiary tools available to prosecutors and make the strongest possible cases against the real perpetrators of crime.

² Twincities.com, *St. Paul crime lab: County attorneys will have state lab retest all pending cases*, available at http://www.twincities.com/localnews/ci_21211098/st-paul-crime-lab-county-attorneys-will-have (last accessed, 8/2/2012).