

**Statement of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Hearing on “Improving Forensic Science in the Criminal Justice System”
July 18, 2012**

Today the Judiciary Committee considers, once again, the important issue of how best to ensure the effectiveness and scientific integrity of forensic evidence used in criminal cases, which is essential to making sure the criminal justice system works for all Americans. This is an issue that the Committee has prioritized for years. It was an issue that formed a backdrop for the Committee's work on the Innocence Protection Act and the Justice for All Act in the last decade and that we have focused on anew for the past three plus years.

The National Academy of Sciences published a report in February 2009 asserting that the field of forensic science has significant problems that urgently need to be addressed. I did not then and do not now view the Academy's report as the final word on this issue, but rather as a starting point for a searching review of the state of forensic science in this country.

In the past several years, we have seen a continuing stream of exonerations of people convicted of serious crimes, some because of mistakes of counsel, but also some, too many, because of flawed forensic evidence. Kirk Odom, imprisoned in Washington, D.C., for 20 years for a rape he did not commit based on faulty hair analysis, is just one recent, tragic example. Just last week, the Justice Department announced a sweeping review of thousands of cases to determine whether defendants were wrongly convicted based on flawed forensic evidence by the FBI lab in the 80's and 90's. It has long been clear that action is necessary to ensure improved support for forensic science and meaningful national standards and oversight.

The Judiciary Committee's process began even before the National Academy of Sciences report. The Committee held two hearings in 2009 and has conducted numerous meetings over the years with those on all sides of the issue, including law enforcement, prosecutors, defense attorneys, forensic scientists, academic scientists, and many, many others. In 2011, I introduced the Criminal Justice and Forensic Science Reform Act; comprehensive legislation designed to build greater certainty and reliability into forensic science nationwide. My outreach has continued after the introduction of the legislation. I have solicited feedback from all sides and continue to work to find the best consensus solution.

One thing that has become very clear through this intensive process is that, for all the serious problems that have been found and questions that have been raised, forensic practitioners are doing great work every day. Laboratories and practitioners around the country follow sound procedures, strive to be as fair and accurate as possible, and produce vital evidence used successfully in courtrooms on a daily basis. It is important to recognize the good work that is happening as well as the significant gaps. We need a solution that builds on existing strengths, identifies weaknesses, and finds ways to fill those gaps.

Strengthening forensic science is not something that tips the scale to one side or the other in the justice system. Forensic disciplines that have been proven to be reliable and that engender total confidence will help law enforcement and prosecutors to identify and convict those guilty of serious crimes. Currently, doubts about the reliability of some forensic analysis have led to successful challenges in court. More research and tighter standards will ensure that good

evidence is accepted as a matter of course. Strong research, standards, and oversight will also help to ensure that forensic evidence is never misused to convict innocent people. Increased public confidence in the criminal justice system will follow.

It is because strengthened forensic science benefits all sides of the criminal justice system that we have been able to find so many points of consensus and engage in a positive process with so many from so many different points of view. Today we will hear from a police lab commander, a state lab director, a prosecutor, and a founder of the Innocence Project. They will not agree on all of the details of how best to move forward, but I believe they will agree that action is necessary and, more to the point, will agree on many of the principles that should guide a legislative solution.

There is widespread acknowledgement that every forensic laboratory nationwide should be accredited under recognized national standards and that every forensic practitioner should be certified in his or her field based on appropriate training, education, and ability. Further, there is agreement that we must dedicate resources to basic foundational research into the validity of forensic disciplines and the methods they employ, and that we must agree on basic standards. We must incorporate existing structures and standards that are working, but add oversight and review to make sure that key gaps are filled. Finally, there is a shared understanding that the forensic science community needs federal support for capacity building, training, and development of new technologies.

We all recognize the importance of harnessing the expertise of those within the criminal justice system to identify what the needs are and how forensic science is applied every day. The Justice Department is best positioned to play this central role. We also recognize that scientific judgments must be made by independent scientists. Agencies like the National Institute of Standards and Technology and the National Science Foundation can help bring scientific independence.

I have tried to incorporate these principles into the Criminal Justice and Forensic Science Reform Act and have appreciated discussing with so many how to make this legislation even better. I hope that by working together we will be able to improve this vital legislation and move forward so that we can more effectively ensure that the criminal justice system works as it should, and has the confidence of the American people.

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