

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
Vermont  
March 18, 2009

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Chairman, Senate Judiciary Committee  
Hearing on "The Need to Strengthen Forensic Science in the United States:  
The National Academy of Science's Report on a Path Forward"  
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Today, we examine the pressing need to strengthen forensic science in America. Just a few weeks ago, the National Academy of Sciences completed one of the most thorough reviews of forensic science ever undertaken in this country. It demonstrates that we have problems. Such problems can go to the heart of our criminal justice system.

Unlike the image that so many of us see on television shows like "CSI," forensic scientists too rarely get to review crime scene evidence in sleek, ultra-modern, state-of-the-art laboratories. Ironically, the so-called "CSI effect" may be doing harm by suggesting that forensic sciences are well funded, and that their results are almost always infallible. As it turns out, that is not the reality examined by the National Academy of Sciences.

Just last fall, the city of Detroit had to shut down its forensic laboratory after an independent audit found that the lab's ballistics reports were wrong or false in one out of every 10 cases. The lab had not kept records of tests performed, nor calibrated instruments properly, in many additional cases. Similarly, in 2003, the city of Houston had to close its DNA and toxicology testing facilities after an audit found untrained staff, shoddy methodology, and potential contamination. Those findings resulted in a review of more than 1,300 criminal cases and required retesting in 30 percent of those cases. In both of these instances, outside reviewers found that labs lacked adequate staff, training, or equipment to do the job right.

This problem is not limited to a few underfunded labs with overworked staffs. According to the latest available statistics from the Justice Department, in 2005, the backlog of forensic exams was more than 350,000 nationwide, up 24 percent from just three years earlier. How many rape kits are still sitting on shelves unexamined with the perpetrator at large and the victim without justice? One out of every five labs does not meet the standards for accreditation set by the National Academy of Crime Lab Directors. As the National Academy of Science report makes clear, we cannot allow these nationwide deficiencies in forensic sciences to continue.

It is critically important to our criminal justice system that we have accurate, timely forensic science, so we can find and punish the guilty, and exonerate the innocent. It helps no one if we imprison the wrong person. What helps is when we take perpetrators of serious crimes off the

streets. Forensic science has also become critically important in supporting homeland security and counter-terrorism missions. We cannot simply wait for the next scandal to break or for the backlogs to grow worse. We must pay attention now and work together to find solutions. I look forward to working with Senator Specter, Senator Durbin, and the other interested members of this Committee on this priority.

This morning we welcome Judge Edwards of the D.C. Circuit Court of Appeals to this hearing. Judge Edwards was the co-chair of the distinguished committee of scientific and legal experts who worked so hard over the past two and half years to complete this report, as requested by Congress. I take this moment to publicly thank him and his fellow Committee members. They have provided all of us with a look at the realities facing forensic science today.

This National Academy of Sciences report is detailed and far-reaching and can provide a foundation for building broad consensus for change. At its core, the report calls for mandating national standards for establishing and enforcing "best practices." It points to a need for standards for the certification of individual examiners and for the accreditation of their laboratories. The report also calls for us to invest in the research underlying modern forensic science.

Even in traditional methods we see problems. Fingerprint comparisons can rely heavily on interpretation. We need only remember the Brandon Mayfield case from a few years ago, when the FBI had to recant its initial findings that Mayfield's fingerprint matched a print found in the Madrid terrorist bombings. An FBI examiner submitted an affidavit claiming there was a "100 percent" match when, in fact, the FBI later admitted the comparison was of no value for identification purposes. More research is needed to strengthen our use of traditional techniques, and also to make sure that forensic sciences advance and create the new tools to solve the crimes of the future.

The report also describes how faulty forensic science has too often made its way into our courts as evidence. We know this from our own experience and this Committee's recent efforts to push the FBI to identify and correct the thousands of criminal cases where bullet lead analysis was improperly used.

The report emphasizes the need to preserve evidence properly at all crime scenes and even after court proceedings. I know the importance of this firsthand from the experience of my friend Kirk Bloodsworth, an innocent man who was twice convicted of murder and rape and served eight years in prison, including two on death row, before DNA testing later exonerated him. His case is not unique. As part of the Justice For All Act we passed a few years ago, I worked hard to pass the Kirk Bloodsworth post-conviction DNA program that encourages states to retain and test evidence from crime scenes. This is meaningless if the evidence is not preserved properly.

We do not have time this morning to review all the findings and recommendations in the report, and I expect this Committee will hold further hearings and continue to work closely with those in all parts of the forensics community to understand the full scope of what needs to be done and the best way to get it done. We must work together to ensure that forensic science will be a tool for justice in this country.

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